

KEITH INGRAM

4 / 23 / 2014

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1 EXHIBITS/continued: 2 No. Description Page 3 35 List of Election Identification Certificate Mobile Stations for Val Verde County 4 ..... 331 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	9 1 the Brennan Center. I represent Texas NAACP and MALC. 2 MR. DOGGETT: Robert Doggett, Texas Rio 3 Grande Legal Aid, with Jose Garza, representing the Ortiz 4 Plaintiffs. 5 MR. BARON: Neil Baron for the 6 Veasey-LULAC Group. 7 MR. BRAZIL: Scott Brazil for the Veasey 8 Group. 9 MR. KEISTER: Ronny Keister for 10 Defendants, and also Lindsey Wolf and Whitney Deason. 11 THE REPORTER: Sir, would you raise your 12 right hand, please. 13 Do you solemnly swear or affirm that the 14 testimony you're about to give here today will be the 15 truth, the whole truth, and nothing but the truth, so 16 help you God? 17 THE WITNESS: I do. 18 MR. ROSENBERG: Just one logistical thing. 19 There are a whole bunch of different plaintiffs here. 20 We're not going to object to each other's questions, I 21 hope, but down the road if there are any objections by 22 one I think it should be deemed to be objections by 23 others or otherwise you'll have six different people 24 objecting at once. 25 MR. KEISTER: That's fine, unless I	11
10 1 PROCEEDINGS 2 (Exhibit No. 1 marked) 3 THE REPORTER: This is the deposition of 4 Keith Ingram taken at the firm of Dechert LLP, 300 West 5 Sixth Street, Austin Texas. Today's date is April 23, 6 2014. The approximate time is 9:02 a.m. My name is 7 Teena Davis with the firm of U.S. Legal Support in 8 Austin, Texas. Would counsel please state your 9 appearances on the record. 10 MS. WESTFALL: This is Elizabeth Westfall 11 for the United States. 12 MS. MARANZANO: Jennifer Maranzano for the 13 United States. 14 MR. ROSENBERG: Ezra Rosenberg from 15 Dechert for the Texas State Conference of NAACP Branches 16 and MALC. 17 MS. KORGAONKAR: Natasha Korgaonkar from 18 the NAACP Legal Defense Fund here for Texas League of 19 Young Voters Group. 20 MR. ROSS: Deuel Ross from the NAACP Legal 21 Defense Fund for the Texas League, Plaintiff-Intervenors. 22 MS. EISENBERG: Lynn Eisenberg from 23 WilmerHale. We're the Texas League Plaintiff-Intervenors here. 25 MR. AGRAHARKAR: Vishal Agraharkar from	10 12 1 indicate otherwise on the particular objection. 2 MS. WESTFALL: Thank you. 3 KEITH INGRAM, 4 having been first duly sworn, testified as follows: 5 EXAMINATION 6 BY MS. WESTFALL: 7 Q. Good morning, Mr. Ingram. How are you? 8 A. Marvelous. 9 Q. Could you state and spell your name for the 10 record, please? 11 A. Brian Keith Ingram, B-R-I-A-N, K-E-I-T-H, 12 I-N-G-R-A-M. 13 Q. And are you employed? 14 A. I am. 15 Q. Where are you employed? 16 A. I work for the Texas Secretary of State. 17 Q. And what is your title? 18 A. I am the director of the Elections Division. 19 Q. Mr. Ingram, you had your deposition taken in 20 the lawsuit of Texas v. Holder in 2012; is that right? 21 A. I did. 22 Q. And do you remember that you were instructed on 23 the ground rules for depositions at that time? 24 A. Yes, I do. 25 Q. Do you remember the ground rules today, sitting	12

KEITH INGRAM

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4 (Pages 13 to 16)

<p style="text-align: center;">13</p> <p>1 here?</p> <p>2 <b>A. I do.</b></p> <p>3 Q. Do you understand you've been sworn in under 4 oath and you may be subject to penalty of perjury for 5 giving false or misleading testimony?</p> <p>6 <b>A. Certainly.</b></p> <p>7 Q. And so you need to testify truthfully, 8 accurately, and completely?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. So just to review some of the key rules for 11 depositions, please wait for me to finish my question 12 before you answer, and I'll try to do the same.</p> <p>13 <b>A. Okay.</b></p> <p>14 Q. I will try to ask you clear questions, but if 15 you don't understand a question that I ask, please ask 16 for clarification, okay?</p> <p>17 <b>A. I will.</b></p> <p>18 Q. If you wish to stop and take a break, please 19 let me know and I'll try to accommodate you, but if there 20 is a question pending, please answer the question before 21 you ask to take a break. Is that okay?</p> <p>22 <b>A. I'll try to do that.</b></p> <p>23 Q. Do you understand these instructions?</p> <p>24 <b>A. Yes.</b></p> <p>25 Q. Are you on any medication today that would</p>	<p style="text-align: center;">15</p> <p>1 Q. What is it?</p> <p>2 <b>A. It's an amended notice of a 30(b)(6) depo for 3 the Secretary of State's Office.</b></p> <p>4 Q. And are you here as the designee for all of the 5 topics listed in that notice?</p> <p>6 <b>A. I am.</b></p> <p>7 Q. Are you prepared to testify about all the 8 topics in that notice?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. The notice asks that documents relied upon by 11 you in preparation of this deposition be produced to the 12 plaintiffs in advance of this deposition. Has that been 13 done?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And I believe that your -- who is your counsel?</p> <p>16 <b>A. Representing me here today is Ronny Keister and 17 a couple of other associates from the Attorney General's 18 Office.</b></p> <p>19 Q. And I believe that before we started this 20 deposition your counsel provided some documents. Is that 21 correct?</p> <p>22 <b>A. It is.</b></p> <p>23 Q. Are there any other documents that you relied 24 upon in preparing for this deposition that have not been 25 previously produced?</p>
<p style="text-align: center;">14</p> <p>1 affect your ability to testify truthfully?</p> <p>2 <b>A. I am not.</b></p> <p>3 Q. Is there any other reason why you can't testify 4 truthfully today?</p> <p>5 <b>A. No.</b></p> <p>6 Q. If I refer to you or your office I will be 7 referring to the elections division of the Texas 8 Secretary of State. Do you understand?</p> <p>9 <b>A. Yes.</b></p> <p>10 Q. And if I refer to the Secretary of State I'm 11 referring to the entire office of the Secretary of State. 12 Is that okay?</p> <p>13 <b>A. Okay. I typically think of my office as the 14 Secretary of State, so that's -- I might get that messed 15 up. Sorry.</b></p> <p>16 Q. I will try to use those terms interchangeably 17 to encompass as wide a scope as possible. Is that okay?</p> <p>18 <b>A. Certainly.</b></p> <p>19 Q. And when I refer to the term minority voters 20 I mean voters that are not white and not Anglo. Is that 21 okay?</p> <p>22 <b>A. Okay.</b></p> <p>23 Q. I'm going to hand you what's been previously 24 marked as Exhibit No. 1. Do you recognize this document?</p> <p>25 <b>A. I do.</b></p>	<p style="text-align: center;">16</p> <p>1 <b>A. No, ma'am. I reviewed some documents that we 2 had produced over the last year, but I didn't rely on 3 them. I just wanted to refresh my recollection about 4 what our office had done.</b></p> <p>5 Q. Could you tell me generally what you reviewed 6 in advance of this deposition?</p> <p>7 <b>A. I looked at the rules that we changed regarding 8 provisional ballots, 81.172 to 81.174 of the Texas 9 Administrative Code. I looked at the two versions of 10 81.71 -- I guess the three versions of that that we had 11 done as well as some e-mail advisories and PowerPoint 12 presentations.</b></p> <p>13 Q. Is there anything else you reviewed?</p> <p>14 <b>A. No, ma'am.</b></p> <p>15 Q. Did you review --</p> <p>16 <b>A. Oh, excuse me. Yes, I did review the 17 interrogatory responses and requests for admissions.</b></p> <p>18 Q. Did you review any documents in the files of 19 Ann McGeehan?</p> <p>20 <b>A. I don't think so, no, ma'am.</b></p> <p>21 Q. Did you review any documents in the files of --</p> <p>22 <b>A. I mean, I don't think of it as in the files of 23 Ann McGeehan. Our office did a first set of rules 81.172 24 to 174 that were not finally adopted that we revised 25 before final adoption, and so I don't know if you</b></p>

<p>1    consider those to be in the files of Ann McGeehan, but I  2    did review those.  3    Q. Did you review any documents authored by  4    Elizabeth Winn?  5    A. No, I mean, other than the hand she would have  6    had in the first version of 81.71 and first version of  7    the provisional ballot rules.  8        MS. WESTFALL: Could you mark this.  9        (Exhibit No. 2 marked)  10      Q. I'm handing you what's been marked as  11     Exhibit 2. Do you recognize this document?  12      A. Yes.  13      Q. What is it?  14      A. It appears to be the answers to the first set  15     of interrogatories from the State of Texas.  16      Q. Did you assist in the preparation of these  17     interrogatory responses?  18      A. I did.  19      Q. What were the interrogatories you contributed  20     to as a general matter?  21      A. Generally I helped with the ones that related  22     to our office.  23      Q. And those would include?  24      A. Do you want specific numbers?  25      Q. Please.</p>	17	<p>1    eliminate non-citizens, so I believe they're on that  2    list.  3    Q. The jury wheel list that you get from DPS; is  4    that correct?  5    A. That's correct.  6    Q. And then your office removes non-citizens and  7    persons with felony convictions; is that correct?  8    A. That's correct.  9    Q. And you prepare the jury list; is that right?  10     A. That's right.  11     Q. What data elements from the TEAM database were  12    matched against the jury wheel list that was conducted in  13    July 2013?  14     A. What we did is -- we compared several different  15    ways, but primarily the name, first name, last name, date  16    of birth, and any identifying numbers that might have  17    been included, so either the driver license number or the  18    last four of the Social or, if we had it, the full nine  19    of the Social.  20     Q. And were those the sum total of the fields that  21    you matched?  22     A. I am not sure about middle name. I do not  23    believe it's used in that process.  24     Q. Who in your office conducted the match?  25     A. Betsy Schonhoff is my voter registration</p>	19
<p>1    A. Number 1, number 3, number 8 indirectly,  2    number 9 indirectly, number 10 directly, number 11  3    directly, number 12, number 13, number 14, number 16,  4    number 17, number 18, number 19, number 22, 24 and 25  5    were, sort of, and I believe that's it.  6      Q. Thank you. The interrogatory responses state  7    that in July 2013 the voter registration list was matched  8    against the jury wheel used by DPS. Is that correct?  9      A. That's correct.  10     Q. Were you involved in that matching process or  11    overseeing that matching process?  12      A. I did.  13      Q. What is the jury wheel list?  14      A. The jury wheel is a list of persons with a  15    driver license and a state ID that the DPS provides to us  16    once a year for the purpose of constituting the list of  17    jurors for each county.  18      Q. And how does that differ from the list of  19    driver license holders and personal ID holders?  20      A. I don't know.  21      Q. Is it different insofar as it is limited to  22    U.S. citizens and persons without felony convictions?  23      A. I believe that one of the first things we do  24    with the jury wheel when we're making -- we do with that  25    list from the DPS when we're making the jury wheel is</p>	18	<p>1    manager, so she interfaced directly with our IT  2    department, and our IT department would actually do the  3    sequel server queries to generate the list.  4      Q. How many active voters were not present on the  5    jury wheel list?  6      A. I don't know.  7      Q. Do you have any ballpark estimate?  8      A. I'm not sure what you're asking. If you're  9    asking about the number of people that didn't match with  10    an ID -- is that what you're asking?  11      Q. Yes.  12      A. It was just under 800,000, 795,000 or so.  13      Q. This was a number that was -- that came out of  14    the July 2013 match?  15      A. It's in that ballpark. It might have been  16    seven-eighty-five, but it was somewhere in the upper  17    700,000, yes, ma'am.  18      Q. Do you recall that a similar type of matching  19    process was conducted in 2011?  20      A. Yes.  21      Q. And was the matching result roughly the same?  22      A. I believe it was less than that. I'm not sure  23    exactly what process was used in September of '11. That  24    was prior to my time with the Secretary of State's  25    Office. But it's my recollection that that number was</p>	20

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<p style="text-align: center;">21</p> <p>1 something under 700,000 non-matches.</p> <p>2 Q. So just to be clear about your testimony, is it</p> <p>3 your testimony that the Secretary of State's Office</p> <p>4 prepared a jury wheel list from information from the DPS</p> <p>5 and then you compared the jury wheel list with a list of</p> <p>6 registered voters? Is that correct?</p> <p>7 A. No, ma'am.</p> <p>8 Q. Could you clarify?</p> <p>9 A. No, we took the DPS database that they provided</p> <p>10 for jury wheel purposes and matched the voter</p> <p>11 registration database against that database, so we didn't</p> <p>12 match it against the actual jury wheel. The jury wheel</p> <p>13 consists of both registered voters and driver license</p> <p>14 holders, and the goal of making the jury wheel is to make</p> <p>15 sure that duplicates aren't on that list.</p> <p>16 Q. I see. I see.</p> <p>17 A. So that somebody's not on the jury list because</p> <p>18 they've got a driver license and on the jury list because</p> <p>19 they're a registered voter.</p> <p>20 Q. I see. Did you provide the matching results</p> <p>21 from this July 2013 match to anyone outside of the</p> <p>22 Secretary of State's Office?</p> <p>23 A. We did.</p> <p>24 Q. Who were those entities or people?</p> <p>25 A. I'm not sure if I can remember all of them off</p>	<p style="text-align: center;">23</p> <p>1 Q. Okay. And then how did counties and other</p> <p>2 entities, such as Ms. Haltom and Chris Tomlinson, learn</p> <p>3 about the existence of this match?</p> <p>4 MR. KEISTER: Objection, calls for</p> <p>5 speculation.</p> <p>6 A. I don't know how Sondra Haltom and</p> <p>7 Chris Tomlinson learned about it. The counties learned</p> <p>8 about it because we were contacting them and we were</p> <p>9 letting them know that we had done this match and we had</p> <p>10 a list of ZIP codes in their counties and the numbers of</p> <p>11 non-matches within those ZIP codes and did they know of</p> <p>12 anyplace where an EIC unit could be set up within those</p> <p>13 ZIP codes.</p> <p>14 Q. I see. And just to be clear -- because it's</p> <p>15 not clear in my mind or I misunderstood the interrogatory</p> <p>16 response. You prepared -- you obtained -- the process</p> <p>17 was that you obtained from DPS the list of driver license</p> <p>18 and personal ID holders and you created the jury wheel,</p> <p>19 is that correct, in-house?</p> <p>20 A. That's right.</p> <p>21 Q. And then you took the jury wheel and you</p> <p>22 compared it with the TEAM database; is that correct?</p> <p>23 A. No.</p> <p>24 Q. Correct me, because I'm not understanding the</p> <p>25 matching process.</p>
<p style="text-align: center;">22</p> <p>1 the top of my head. I know Sondra Haltom from Empower</p> <p>2 the Vote Texas requested it. I know that Chris Tomlinson</p> <p>3 from the Associated Press requested it. We also provided</p> <p>4 it to counties who asked for their particular voters who</p> <p>5 were non-matches, so there were some counties -- I know</p> <p>6 Dallas, Travis, I believe Harris all asked for their list</p> <p>7 for their county of persons who didn't match within their</p> <p>8 county.</p> <p>9 Q. Were there any other counties you can recall at</p> <p>10 this time?</p> <p>11 A. I don't know. I can't -- I mean, there might</p> <p>12 have been some smaller ones that asked for it as well.</p> <p>13 But I know -- I know Travis did, I know Dallas was</p> <p>14 interested in it, and I know that Harris was.</p> <p>15 Q. Why did you conduct this match?</p> <p>16 A. The purpose of that match was to get an idea by</p> <p>17 ZIP code of where concentrations of voters would be that</p> <p>18 didn't match with a driver license or state ID. We were</p> <p>19 contemplating the use of mobile election identification</p> <p>20 certificate units and we wanted to have some idea -- a</p> <p>21 rough idea, because obviously non-matches doesn't mean</p> <p>22 they don't have an ID. But we wanted to have a rough</p> <p>23 idea of where the voters might be concentrated who could</p> <p>24 benefit from election identification certificate mobile</p> <p>25 unit.</p>	<p style="text-align: center;">24</p> <p>1 A. The purpose of mentioning the jury wheel is to</p> <p>2 say that it was the driver license database associated</p> <p>3 with the jury wheel process.</p> <p>4 Q. I see. I see.</p> <p>5 A. So we matched with the DPS database that we use</p> <p>6 for jury wheel.</p> <p>7 Q. Did you contact every single county about the</p> <p>8 results of this match?</p> <p>9 A. No, ma'am.</p> <p>10 Q. How did you identify which counties?</p> <p>11 A. Like I said, the purpose of this was we were</p> <p>12 investigating where to send mobile EIC units, and so the</p> <p>13 goal was to find -- there were two competing variables</p> <p>14 with regard to mobile EIC units; number 1, we wanted to</p> <p>15 make sure that rural communities had access to EICs if</p> <p>16 they needed an election identification certificate. So</p> <p>17 that was one interest at stake with regard to the EIC</p> <p>18 mobile program. The other interest was to find</p> <p>19 concentrations of voters that may benefit from this</p> <p>20 program. So with regard to this matching exercise, it</p> <p>21 was -- the purpose was to find concentrations of voters</p> <p>22 that could benefit, potentially, from an EIC, and so</p> <p>23 that's the reason those counties with high concentrations</p> <p>24 in a ZIP code were contacted. Obviously, in Reeves</p> <p>25 County or Upton or any of the other rural counties, they</p>

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<p style="text-align: right;">25</p> <p>1 don't have large concentrations of voters. The matching 2 exercise was not really pertinent to that aspect of the 3 mobile EIC program.</p> <p>4 Q. So in some you contacted some counties with 5 large concentrations and some counties with rural 6 populations that might not have a driver license office 7 or where you were contemplating putting a mobile EIC 8 unit?</p> <p>9 A. Right. And it wasn't just that they didn't 10 have a driver license full time in their county, it was 11 that they were rural and they could be -- you know, even 12 if it was within the same county, they could be a 13 significant distance away from the driver license office, 14 so we wanted to make sure that there was rural coverage.</p> <p>15 Q. How many counties was it total that you 16 contacted, approximately?</p> <p>17 A. With regard to what?</p> <p>18 Q. With regard to the jury wheel match results in 19 July 2013.</p> <p>20 A. I am not sure. It would have been all of the 21 big ones, so Bexar, Harris, Dallas, Travis, Williamson, 22 Hays, Fort Bend, Brazoria, Jefferson. You know, it would 23 have been all of the larger counties, Cameron, Hidalgo.</p> <p>24 Q. Did you produce the matching results to your 25 counsel in this litigation?</p>	<p style="text-align: right;">27</p> <p>1 the voters in it is very large.</p> <p>2 Q. We would request both of those matching 3 results. Thank you for your clarification.</p> <p>4 MR. KEISTER: Counsel, let me just state 5 on the record I do not know if those have been produced 6 or not. I'm not saying they have, I'm not saying they 7 haven't. And just to make it clear, my memory is not as 8 good as it once was, so don't rely upon anything said at 9 the deposition for me to follow up on. Please give it to 10 me in writing or give it to us in writing.</p> <p>11 MS. WESTFALL: Certainly we will do that.</p> <p>12 MR. KEISTER: Not to be problematic, but 13 I'm sure by the end of the day this will all be gone from 14 my memory.</p> <p>15 MS. WESTFALL: We will do that. Thank 16 you.</p> <p>17 BY MS. WESTFALL:</p> <p>18 Q. Did you contact any voters on the matching list 19 individually and advise them of SB 14's ID requirements 20 or the availability of an EIC?</p> <p>21 A. No, ma'am.</p> <p>22 Q. Why didn't you do that?</p> <p>23 A. Well, because there's too many of them. I 24 don't know -- you know, we break it down by county. The 25 counties deal with their voters. So I know that</p>
<p style="text-align: right;">26</p> <p>1 A. I believe so, yes, ma'am.</p> <p>2 Q. Have they been turned over to the United States 3 and the other plaintiffs in this litigation?</p> <p>4 A. I don't know.</p> <p>5 MS. WESTFALL: Mr. Keister, have the 6 matching results been produced in this litigation?</p> <p>7 MR. KEISTER: Counsel, I can't answer that 8 question. I'm sorry.</p> <p>9 MS. WESTFALL: Could you, after this 10 deposition, look into that and determine whether you 11 have? And we would request that the matching results be 12 produced. They are responsive to our request for 13 production.</p> <p>14 A. Could I clarify that request?</p> <p>15 Q. Certainly.</p> <p>16 A. There's two different forms that this response 17 takes. They're both in an Excel spreadsheet. There's 18 one that is just broken out by county by ZIP code, so it 19 just has the numbers on it, and then there's another one 20 that has the actual voters underneath those numbers. You 21 want one or both of those?</p> <p>22 Q. So there are two files, one is a summary by 23 county of the number of voters and one is a list of the 24 actual voters; is that correct?</p> <p>25 A. That's right. And so, you know, the one with</p>	<p style="text-align: right;">28</p> <p>1 Bruce Elfant here in Travis County sent all of his voters 2 on that list a postcard. I know that Toni Pippins Poole 3 did it up in Dallas. And so it's their responsibility to 4 interface with their voters if they feel the need to do 5 so.</p> <p>6 Q. And as the Secretary of State responsible for 7 enforcing the statute, SB 14, you did not feel it was 8 within your responsibility to contact the voters 9 individually?</p> <p>10 A. We have not -- as an office we have not made 11 that decision. There are budgetary and resource 12 constraints that are all too real whenever we're talking 13 about a list that large.</p> <p>14 Q. So was it -- it was budgetary and resource 15 constraints that caused you to conclude at that time that 16 you were not going to contact voters individually? Is 17 that your testimony?</p> <p>18 A. Yes, ma'am.</p> <p>19 Q. Did you have on that list of matched voters 20 phone numbers for those voters?</p> <p>21 A. No, ma'am.</p> <p>22 Q. They're not available --</p> <p>23 MS. WESTFALL: Strike that.</p> <p>24 Q. Do voters supply their phone number when they 25 register to vote?</p>

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<p>1      <b>A. Some do.</b></p> <p>2      Q. And is that information in the TEAM database?</p> <p>3      <b>A. I don't believe so.</b></p> <p>4      Q. It's not input in the TEAM database?</p> <p>5      <b>A. No, ma'am.</b></p> <p>6      Q. What are those phone numbers used for when</p> <p>7      they're input on the voter registration application?</p> <p>8      <b>A. The counties sometimes use them to contact the</b></p> <p>9      <b>voters.</b></p> <p>10     Q. Is it your testimony that there are no phone</p> <p>11     numbers associated with individual voters in the TEAM</p> <p>12     database?</p> <p>13     <b>A. I don't know for sure, but I don't believe</b></p> <p>14     <b>there are.</b></p> <p>15     Q. Aside from Sondra Haltom, Chris Tomlinson, and</p> <p>16     the counties, did anyone else request this list?</p> <p>17     <b>A. I don't remember. I think there were a couple</b></p> <p>18     <b>of other requests, but I don't know who they were. I</b></p> <p>19     <b>know that in response to Interrogatory No. 17 we provided</b></p> <p>20     <b>a spreadsheet with the folks who had requested that list.</b></p> <p>21     Q. Did the Secretary of State's Office play any</p> <p>22     role in the development of the EIC application form?</p> <p>23     <b>A. No, ma'am.</b></p> <p>24     Q. And by EIC I'm referring to the election</p> <p>25     identification certificate, okay?</p>	<p>29</p> <p>1      please.</p> <p>2      (Exhibit No. 3 marked)</p> <p>3      Q. I'm handing you what's been marked as</p> <p>4      Exhibit 3. Have you seen this document before?</p> <p>5      <b>A. No, ma'am.</b></p> <p>6      Q. Did the Department of Public Safety solicit the</p> <p>7      views of your office about whether to require EIC</p> <p>8      applicants to provide fingerprints?</p> <p>9      <b>A. They didn't solicit our advice. We gave it</b></p> <p>10     <b>unsolicited.</b></p> <p>11     Q. Who in your office gave that input?</p> <p>12     <b>A. Myself and Secretary Steen.</b></p> <p>13     Q. When was that input provided?</p> <p>14     <b>A. Several occasions.</b></p> <p>15     Q. Do you know approximately the first time that</p> <p>16     you provided input on fingerprinting requirements?</p> <p>17     MR. KEISTER: Mr. Ingram, let me advise</p> <p>18     you that to the extent that it was deliberative process</p> <p>19     of the Secretary of State's Office, I'm going to advise</p> <p>20     you not to answer, but if it's not within deliberative</p> <p>21     process, you can.</p> <p>22     <b>A. You're talking about the date?</b></p> <p>23     MS. WESTFALL: And, Mr. Keister, the</p> <p>24     Department of Public Safety was the entity responsible</p> <p>25     for administering the EICs, so I'm not sure what decisio</p>
<p>1      <b>A. Okay.</b></p> <p>2      Q. Did the Secretary of State's Office play any</p> <p>3      role in developing the regulations promulgated by the</p> <p>4      Department of Public Safety pertaining to EICs?</p> <p>5      <b>A. I don't know. I think so.</b></p> <p>6      Q. Do you know what that role or participation</p> <p>7      was?</p> <p>8      <b>A. Well, when we were contemplating the use of</b></p> <p>9      <b>mobile election identification certificate units we were</b></p> <p>10     <b>trying to gather the list of equipment that would be</b></p> <p>11     <b>required to issue election identification certificates on</b></p> <p>12     <b>a remote basis away from the office, and there was some</b></p> <p>13     <b>equipment in there that we asked questions about, and I</b></p> <p>14     <b>believe as a result of our question asking the need for</b></p> <p>15     <b>that equipment went away, so I don't know how that played</b></p> <p>16     <b>out over on the DPS side.</b></p> <p>17     Q. Who in your office interfaced with the</p> <p>18     Department of Public Safety, if you know, over these --</p> <p>19     concerning the promulgation of regulations related to</p> <p>20     EICs?</p> <p>21     <b>A. And that's -- that's my point. It wasn't</b></p> <p>22     <b>directly regarding the promulgation of regulations, but</b></p> <p>23     <b>it did, I think, have an impact on the final version of</b></p> <p>24     <b>those regulations.</b></p> <p>25     MS. WESTFALL: Could you mark this as 3,</p>	<p>30</p> <p>32</p> <p>1      you are referring to that would have been made by the SO</p> <p>2      with regard to fingerprinting.</p> <p>3      MR. KEISTER: Well, what you're asking</p> <p>4      for, to me, is calling for the deliberations of the</p> <p>5      Secretary of State with respect to advice they gave to</p> <p>6      the Department of Public Safety. And to the extent,</p> <p>7      Mr. Ingram, that that is within the deliberative process,</p> <p>8      the process that you guys went through, then I'm going to</p> <p>9      instruct you not to answer.</p> <p>10     MS. WESTFALL: Could you read back the</p> <p>11     question, please.</p> <p>12     (Question read by the reporter)</p> <p>13     <b>A. So --</b></p> <p>14     MR. KEISTER: With respect to that</p> <p>15     question you can answer, but with respect to any</p> <p>16     underlying conversations or deliberations between you and</p> <p>17     your office, don't give any additional information.</p> <p>18     <b>A. The timing of it would have been in July and</b></p> <p>19     <b>August of 2013.</b></p> <p>20     Q. What was your input with regard to</p> <p>21     fingerprinting?</p> <p>22     <b>A. It was our belief that fingerprinting was</b></p> <p>23     <b>unnecessary with regard to an election identification</b></p> <p>24     <b>certificate.</b></p> <p>25     Q. What was the basis of your view?</p>

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<p style="text-align: right;">33</p> <p>1     <b>A. It was the basis for our view that SB 14 had in</b>    2     <b>its transportation code amendment that the requirements</b>    3     <b>that the DPS could require for the election</b>    4     <b>identification certificate said that they may require the</b>    5     <b>same identification points as a driver license requires,</b>    6     <b>which would have included fingerprint, and since that</b>    7     <b>language was worded permissively it didn't require all of</b>    8     <b>the elements that are required to obtain a driver license</b>    9     <b>and that we felt that fingerprinting for this process to</b>    10    <b>prevent in-person voter impersonation fraud for a</b>    11    <b>single-use certificate that could only be used for voting</b>    12    <b>was unnecessary and didn't need to be.</b></p> <p>13    Q. Are you aware that the DPS regulations    14    concerning the application form and what an applicant has    15    to provide for an EIC do require fingerprinting?</p> <p>16    <b>A. That was DPS' response, that their rule</b>    17    <b>required it, and I said, well, that's your rule and it</b>    18    <b>can be changed.</b></p> <p>19    Q. And are you aware that as of today it hasn't    20    changed?</p> <p>21    <b>A. I am not aware of that, no, ma'am.</b></p> <p>22    Q. Was there ever a time when applicants for an    23    EIC were required to provide fingerprints?</p> <p>24    <b>A. I believe so, yes, ma'am.</b></p> <p>25    Q. What was that period of time?</p>	<p style="text-align: right;">35</p> <p>1     <b>A. I don't know how many. That's just my best</b>    2     <b>guess.</b></p> <p>3     Q. Does a voter registration applicant in Texas    4     need to provide fingerprints?</p> <p>5     <b>A. No, ma'am.</b></p> <p>6     Q. Do you know who made the decision at DPS to    7     require fingerprints?</p> <p>8     <b>A. I have no idea.</b></p> <p>9     Q. Do you know whether an applicant for a U.S.    10    passport needs to provide fingerprints?</p> <p>11    <b>A. I don't know. I doubt -- I don't think so.</b></p> <p>12    Q. Do you know whether a person in the military    13    obtaining an ID needs to provide fingerprints?</p> <p>14    <b>A. I don't know. I don't think so. I should ask</b>    15    <b>my son.</b></p> <p>16    Q. Do you know what offices EIC applicants were    17    required to provide fingerprints in?</p> <p>18    <b>A. No, ma'am.</b></p> <p>19    Q. Or what counties?</p> <p>20    <b>A. No.</b></p> <p>21    Q. Do you know whether any voters were deterred    22    from applying for EICs due to this fingerprinting    23    requirement?</p> <p>24    <b>A. I have no idea.</b></p> <p>25    Q. How many conversations did you have with the</p>
<p style="text-align: right;">34</p> <p>1     <b>A. Before July or August of 2013. So there</b>    2     <b>were -- I don't know. At that point seems like there</b>    3     <b>might have been 17 or 20 that had been issued statewide,</b>    4     <b>and probably those folks gave fingerprints.</b></p> <p>5     Q. So that was between the period when the law    6     began to be enforced around the 25th of June 2013 and    7     sometime in July 2013; is that correct?</p> <p>8     <b>A. Or perhaps August, but yes, ma'am.</b></p> <p>9     Q. Were there any complaints received by your    10    office or by county election officials about the    11    fingerprinting requirement?</p> <p>12    <b>A. No, ma'am.</b></p> <p>13    Q. How did this issue come to your attention?</p> <p>14    <b>A. Like I said, it was with regard to getting a</b>    15    <b>list of equipment that would be required to do mobile</b>    16    <b>election identification certificates.</b></p> <p>17    Q. And one of the items in that equipment related    18    to fingerprinting; is that correct?</p> <p>19    <b>A. That's right.</b></p> <p>20    Q. And that's how it was brought to your    21    attention; is that right?</p> <p>22    <b>A. Yes.</b></p> <p>23    Q. And to your knowledge about 15 to 20 people had    24    to be fingerprinted during that period when fingerprints    25    were required?</p>	<p style="text-align: right;">36</p> <p>1     Department of Public Safety concerning fingerprinting?</p> <p>2     <b>A. How many? I don't know. Three or four.</b></p> <p>3     Q. Who at the Department of Public Safety did you    4     communicate your views to?</p> <p>5     <b>A. We communicated our views to Mr. Bodisch,</b>    6     <b>Mr. Peters, and Mr. McCraw, Colonel McCraw.</b></p> <p>7     Q. What was their reaction?</p> <p>8     <b>A. I don't know. I don't know what you mean.</b></p> <p>9     Q. Did they respond favorably to your suggestion    10    to remove that requirement or were they resistant?</p> <p>11    <b>A. They were resistant.</b></p> <p>12    Q. What was the basis of their views as you    13    perceived them?</p> <p>14    MR. KEISTER: Calls for speculation.</p> <p>15    <b>A. I don't know.</b></p> <p>16    Q. What did they tell you as to why they needed to    17    continue this requirement?</p> <p>18    <b>A. I don't know. I don't -- their view was that</b>    19    <b>they're a law enforcement agency and as a law enforcement</b>    20    <b>agency that's their primary way to look at the world and</b>    21    <b>when they've got the opportunity to interface with</b>    22    <b>someone they want to get that data on that person and</b>    23    <b>that the potential for somebody to impersonate someone to</b>    24    <b>get an EIC existed apart from the fingerprint to confirm</b>    25    <b>their identity.</b></p>

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10 (Pages 37 to 40)

<p style="text-align: right;">37</p> <p>1 Q. Do you know what the Department of Public 2 Safety -- and I'm going to refer to it interchangeably as 3 DPS and Department of Public Safety. Do you know what 4 they did with the fingerprints when they obtained the 5 fingerprints from the EIC applicants?</p> <p>6 <b>A. No, ma'am.</b></p> <p>7 Q. Do you know what the standard practice is of 8 DPS when they obtain fingerprints from applicants for 9 other forms of ID?</p> <p>10 <b>A. I do not.</b></p> <p>11 Q. Are you confident sitting here today that no 12 DPS offices are requiring fingerprinting of EIC 13 applicants?</p> <p>14 <b>A. I am not.</b></p> <p>15 Q. Do you know who would know the answer to that 16 question?</p> <p>17 <b>A. The Department of Public Safety.</b></p> <p>18 Q. Do you know who at DPS would know?</p> <p>19 <b>A. I don't know for sure who over there would 20 know. Probably all of the ones that I mentioned would 21 know as well as Mr. Rodriguez.</b></p> <p>22 Q. And was there a time after you had three or 23 four conversations with DPS that they agreed with your 24 position and decided that fingerprints would not be 25 required?</p>	<p style="text-align: right;">39</p> <p>1 instruct him not to answer his personal opinions. That's 2 outside the scope of what we're here for today. He's 3 here to testify on the areas in the subpoena, and that's 4 not his personal opinions.</p> <p>5 MS. WESTFALL: Well, Mr. Keister, we can 6 certainly notice Mr. Ingram for another deposition in his 7 personal capacity if that's how you would like to proceed 8 or we could try to efficiently conduct this deposition 9 and have him here for one day.</p> <p>10 MR. KEISTER: Counsel, that's your call 11 how you want to proceed, but I'm going to instruct 12 Mr. Ingram only to testify, to the extent possible, as to 13 the issues in the subpoena, and that's -- and I do not 14 want this record to confuse Mr. Ingram's personal 15 opinions for being that of the Office of the Secretary of 16 State. It's going to be a long depo, and I'm afraid it 17 will get confused.</p> <p>18 MS. WESTFALL: I'll ask it a different 19 way.</p> <p>20 MR. KEISTER: Okay.</p> <p>21 BY MS. WESTFALL:</p> <p>22 Q. From the standpoint of the Secretary of State's 23 Office was the Secretary of State at any time concerned 24 that some voters might be intimidated by the 25 fingerprinting requirement?</p>
<p style="text-align: right;">38</p> <p>1 <b>A. There was, and that the equipment that we 2 purchased for the mobile EIC units did not include the 3 fingerprint equipment.</b></p> <p>4 Q. And it's your testimony this was about 5 August 2013?</p> <p>6 <b>A. Yes, because we started the actual usage of the 7 mobile EICs in the middle of September, so it would have 8 been late August or early September.</b></p> <p>9 Q. Do you know whether the determination to stop 10 requiring fingerprinting was communicated to DPS 11 personnel?</p> <p>12 <b>A. I have no idea.</b></p> <p>13 Q. Do you know who would know the answer to that 14 question?</p> <p>15 <b>A. The folks over at DPS.</b></p> <p>16 Q. Were you concerned -- was part of the reason 17 why you didn't feel fingerprinting was necessary was that 18 you were concerned that fingerprinting EIC applicants 19 would be intimidating to those voters?</p> <p>20 MR. KEISTER: Objection. Are you asking 21 Mr. Ingram his personal opinion or are you asking is 22 there a position of the Secretary of State?</p> <p>23 MS. WESTFALL: I'm asking his personal 24 opinion.</p> <p>25 MR. KEISTER: Well, then I'm going to</p>	<p style="text-align: right;">40</p> <p>1 <b>A. I don't know if intimidated is the correct 2 word. It felt to us like it was unnecessary and would 3 create an additional hurdle that might be a problem for 4 some voters for whatever reason, and we did not believe 5 that the hurdle was necessary.</b></p> <p>6 Q. Did you think that the Secretary of State's 7 Office felt that voters might be discouraged from 8 applying for an EIC because of this requirement?</p> <p>9 MR. KEISTER: Once again, Mr. Ingram -- 10 are you asking for his personal opinion at this point or 11 are you asking for the Office of the Secretary of State?</p> <p>12 MS. WESTFALL: The Office of the Secretary 13 of State.</p> <p>14 <b>A. We were of the opinion that it would create 15 a hurdle for some voters that was unnecessary.</b></p> <p>16 Q. Are EIC applicants required to provide 17 documentary proof of U.S. citizenship?</p> <p>18 <b>A. I believe so. I believe they're required to 19 produce proof of citizenship and identification, but the 20 specific elements of those requirements would be a DPS 21 question.</b></p> <p>22 Q. And could the decision to require or not 23 require fingerprints be reversed at any time?</p> <p>24 <b>A. I don't know.</b></p> <p>25 Q. Do you know why EIC applicants are required to</p>

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<p style="text-align: center;">41</p> <p>1 provide documentary proof of U.S. citizenship?</p> <p>2     <b>A. I do not.</b></p> <p>3     Q. Did DPS solicit the views of the Secretary of</p> <p>4 State on this issue?</p> <p>5     <b>A. No, ma'am.</b></p> <p>6     Q. Do you know who at DPS decided that EIC</p> <p>7 applicants would have to provide documentary proof of</p> <p>8 U.S. citizenship?</p> <p>9     <b>A. I do not.</b></p> <p>10    Q. Do you know what the purpose of this</p> <p>11 requirement is?</p> <p>12    <b>A. I do not.</b></p> <p>13    Q. It's not required by SB 14, is it?</p> <p>14    <b>A. SB 14 says that the DPS can require the same</b></p> <p>15 <b>elements of proof of ID and proof of citizenship that are</b></p> <p>16 <b>required for a driver license.</b></p> <p>17    Q. Do you think documentary proof of citizenship</p> <p>18 is a necessary requirement for EIC applicants?</p> <p>19        MR. KEISTER: Objection. Once again,</p> <p>20 counsel, I'm going to instruct --</p> <p>21    Q. On behalf of the Secretary of State.</p> <p>22    <b>A. Our office has no position on that.</b></p> <p>23    Q. Is documentary proof of citizenship required</p> <p>24 when you register to vote in Texas?</p> <p>25    <b>A. No, ma'am.</b></p>	<p style="text-align: center;">43</p> <p>1 characterization of testimony as a dispute.</p> <p>2     Q. You may answer.</p> <p>3     <b>A. The mobile EIC units did not have realtime</b></p> <p>4 <b>connectivity.</b></p> <p>5     Q. So in other words, the mobile EIC units did not</p> <p>6 conduct background checks of EIC applicants?</p> <p>7     <b>A. I don't know. They did not have realtime</b></p> <p>8 <b>Internet connectivity for performing said background</b></p> <p>9 <b>checks in realtime.</b></p> <p>10    Q. Do you know whether EIC applicants who went to</p> <p>11 driver license offices were subjected to background</p> <p>12 checks?</p> <p>13    <b>A. I do not know.</b></p> <p>14    Q. Do you know who would know that?</p> <p>15    <b>A. The DPS.</b></p> <p>16    Q. Who at DPS?</p> <p>17    <b>A. I don't know.</b></p> <p>18    Q. Do you know whether EIC applicants had -- when</p> <p>19 they submitted their application, had a check for arrest</p> <p>20 warrants as part of the background check you described?</p> <p>21    <b>A. I believe that was the purpose of the</b></p> <p>22 <b>background check.</b></p> <p>23    Q. Do you believe background checks are occurring</p> <p>24 currently for EIC applicants?</p> <p>25    <b>A. I have no idea.</b></p>
<p style="text-align: center;">42</p> <p>1     Q. Is it required to obtain a license to carry a</p> <p>2 concealed handgun?</p> <p>3     <b>A. I don't know.</b></p> <p>4     Q. Is it required to obtain a Texas driver</p> <p>5 license?</p> <p>6     <b>A. I don't know.</b></p> <p>7     Q. Is it required to obtain a Texas personal ID</p> <p>8 card from DPS?</p> <p>9     <b>A. I don't know.</b></p> <p>10    Q. At any point were EIC applications compared</p> <p>11 against other state databases to see if the applicant had</p> <p>12 any outstanding traffic tickets?</p> <p>13    <b>A. I'm not sure.</b></p> <p>14    Q. Have you heard anything about this before?</p> <p>15    <b>A. Well, I know that when we were getting the</b></p> <p>16 <b>mobile EIC unit concept underway that one of the</b></p> <p>17 <b>requirements was realtime connectivity at a fairly high</b></p> <p>18 <b>data bit rate, and when we questioned the need for that</b></p> <p>19 <b>the response was that it was to perform background</b></p> <p>20 <b>checks. So I don't know if a background check includes</b></p> <p>21 <b>unpaid traffic tickets or not, but that was another thing</b></p> <p>22 <b>that we felt was unnecessary.</b></p> <p>23    Q. What was the resolution of your dispute with</p> <p>24 DPS as to background checks on applicants?</p> <p>25    MR. KEISTER: Objection to the</p>	<p style="text-align: center;">44</p> <p>1     Q. Is there any state law that you're aware of</p> <p>2 that would prevent DPS from conducting background checks</p> <p>3 of EIC applicants?</p> <p>4     <b>A. No, ma'am.</b></p> <p>5     Q. And the Secretary of State's Office doesn't</p> <p>6 compare voter registration applications against data</p> <p>7 showing whether you have an outstanding traffic ticket,</p> <p>8 does it?</p> <p>9     <b>A. No.</b></p> <p>10    Q. And when you're processing voter registration</p> <p>11 applications you don't do any check to determine whether</p> <p>12 the applicant has any outstanding arrest warrants; is</p> <p>13 that correct?</p> <p>14    <b>A. That is correct.</b></p> <p>15    Q. Is the Secretary of State's Office aware of any</p> <p>16 public perception that if you go to a driver license</p> <p>17 office a warrant check will be conducted while you're</p> <p>18 there?</p> <p>19    <b>A. I have no idea.</b></p> <p>20    Q. Are state troopers or law enforcement generally</p> <p>21 present at driver license offices?</p> <p>22    <b>A. Yes, they are.</b></p> <p>23    Q. Are you aware -- is the Secretary of State's</p> <p>24 Office aware of any concerns about the presence of law</p> <p>25 enforcement at driver license offices?</p>

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<p style="text-align: center;">45</p> <p>1     <b>A. No, ma'am.</b></p> <p>2     Q. Is there any law enforcement at polling places 3 on election day?</p> <p>4     <b>A. Well, there can be, but usually not.</b></p> <p>5     Q. And why is that?</p> <p>6     <b>A. Not usually a need. If the election judge</b> 7 <b>feels that there is a potential breach of the peace, then</b> 8 <b>they certainly can have a constable or a local law</b> 9 <b>official at the polling place, but normally there's not</b> 10 <b>a perceived threat to public order or safety that would</b> 11 <b>require the election judge to make that request of local</b> 12 <b>law enforcement.</b></p> <p>13    Q. And is it generally true that county election 14 offices don't have law enforcement at polling places 15 because it would be intimidating to voters?</p> <p>16    MR. KEISTER: Objection, calls for 17 speculation.</p> <p>18    <b>A. Right. I don't believe that has anything to do</b> 19 <b>with it, no, ma'am.</b></p> <p>20    Q. Has the Secretary of State's Office played any 21 role in the issuance of EICs?</p> <p>22    <b>A. Yes.</b></p> <p>23    Q. And describe that role.</p> <p>24    <b>A. We were a part of the program for the mobile</b> 25 <b>EIC units last fall, and then we have actually had</b></p>	<p style="text-align: center;">47</p> <p>1     <b>A. Yes.</b></p> <p>2     Q. What has that role been?</p> <p>3     <b>A. There was what we call Phase 3 of the mobile</b> 4 <b>EIC unit program, and it involved permanent fixtures of</b> 5 <b>election identification certificate mobile units inside</b> 6 <b>counties that didn't have a permanent driver license</b> 7 <b>office, so I, for the Secretary of State's Office,</b> 8 <b>contacted those counties -- I don't remember how many</b> 9 <b>there were, 79 or 80 of them -- and talked to them about</b> 10 <b>the possibility of having the training, having the</b> 11 <b>equipment and the ability to issue election</b> 12 <b>identification certificates locally on a full-time basis.</b></p> <p>13    Q. Has that been executed or is that a plan?</p> <p>14    <b>A. It has been executed and it is currently in the</b> 15 <b>process of continuing to be executed. So there were some</b> 16 <b>counties who were very quick on deciding to take us up on</b> 17 <b>the offer, there were other counties who were more</b> 18 <b>reluctant, and so it's been a process.</b></p> <p>19    Q. What is the current status of how many counties 20 without driver license offices have entered into this 21 arrangement?</p> <p>22    <b>A. I am not sure. The last I heard it was 40 had</b> 23 <b>the ability to do EICs on a full-time basis locally. I'm</b> 24 <b>not sure of what the updated numbers are past that. I</b> 25 <b>believe that there were several more who had agreed to be</b></p>
<p style="text-align: center;">46</p> <p>1     <b>several of our employees trained to issue election</b> 2 <b>identification certificates, and in the spring campaign</b> 3 <b>before the March primary some of our agency employees</b> 4 <b>were out with the mobile units paired with a DPS person</b> 5 <b>and they did issue a couple or maybe three or four EICs.</b></p> <p>6     Q. Is there any other way in which the Secretary 7 of State's Office has played a role in issuing EICs?</p> <p>8     <b>A. No, ma'am.</b></p> <p>9     Q. Did your office have any role in issuing EICs 10 in October or September 2013?</p> <p>11    <b>A. We -- we had a role in trying to direct the</b> 12 <b>locations of the election identification certificate</b> 13 <b>mobile units, and so we coordinated very closely with DPS</b> 14 <b>in that process. But no, we didn't actually issue the</b> 15 <b>election identification certificates.</b></p> <p>16    Q. So you had no involvement in issuing EICs at 17 driver license offices; is that correct?</p> <p>18    <b>A. That's correct.</b></p> <p>19    Q. You have no plans to be involved in issuing 20 EICs at driver license offices; is that correct?</p> <p>21    <b>A. Our office has no such current plans. If the</b> 22 <b>legislature decides that we need to have a role, then we</b> 23 <b>will.</b></p> <p>24    Q. Fair point. Has your office played any role in 25 working in other -- in county offices to issue EICs?</p>	<p style="text-align: center;">48</p> <p>1     <b>trained and accept the equipment. I just don't know what</b> 2 <b>the current status is.</b></p> <p>3     Q. Are those 40 currently operating offices that 4 issue EICs or is this -- is your testimony that they've 5 entered into an agreement to do that?</p> <p>6     <b>A. No, no, they -- they -- they're up and</b> 7 <b>running, so if someone needs an election identification</b> 8 <b>certificate in those counties they can go to their</b> 9 <b>local -- it depends on the county which office has the</b> 10 <b>equipment. Sometimes the county judge's office has it,</b> 11 <b>sometimes it's the sheriff, sometimes it is the voter</b> 12 <b>registrar, and sometimes it's the county clerk, so it</b> 13 <b>depends on the county.</b></p> <p>14    Q. Okay. We'll talk a little bit about that 15 Phase 3 later, after we talk about earlier phases.</p> <p>16    Are you aware that there have been changes 17 to the rules related to the issuance of birth 18 certificates to be used to obtain an EIC?</p> <p>19    <b>A. Yes.</b></p> <p>20    Q. Have you had any role or involvement or input 21 in the changes to those rules?</p> <p>22    <b>A. No, ma'am.</b></p> <p>23    Q. Are you familiar with mobile EIC centers?</p> <p>24    <b>A. I'm not sure.</b></p> <p>25    Q. Units?</p>

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13 (Pages 49 to 52)

<p style="text-align: right;">49</p> <p>1     <b>A. Yes.</b></p> <p>2     Q. What are those?</p> <p>3     <b>A. It is equipment that can be transported from</b>  <b>4     location to location that has within it the ability to</b>  <b>5     take the person's information, scan it in and issue a</b>  <b>6     temporary form of an election identification certificate.</b></p> <p>7     Q. What prompted development of mobile EIC units?</p> <p>8         MR. KEISTER: Mr. Ingram, to the extent</p> <p>9     that calls for any deliberations within the office, I'm</p> <p>10    going to instruct you not to answer that. To the extent</p> <p>11    it's simply telling what the office does, then you can go</p> <p>12    into that.</p> <p>13    <b>A. Yeah, then I don't know if I can answer that</b>  <b>14    question.</b></p> <p>15    Q. When did the beginning of the program start?</p> <p>16    <b>A. It actually started with mobile EIC units in</b>  <b>17    place sometime around the 15th or 20th of September. I'm</b>  <b>18    not sure exactly the kickoff date.</b></p> <p>19    Q. When did the plans for the units start?</p> <p>20    <b>A. It would have been June and July of 2013.</b></p> <p>21    Q. Who was involved in developing the plans?</p> <p>22    <b>A. Our office, the Governor's Office, the</b>  <b>23    Department of Public Safety.</b></p> <p>24    Q. Who at the Governor's Office was involved?</p> <p>25    <b>A. I am not sure who all was involved. There's a</b></p>	<p style="text-align: right;">51</p> <p>1     that that's concerning deliberations in your office about</p> <p>2     what ultimately resulted in the mobile EICs, I'm going to</p> <p>3     instruct you not to answer that.</p> <p>4     <b>A. I guess I can't answer.</b></p> <p>5     Q. You had the list of voters who didn't have</p> <p>6     state-issued IDs in July 2013, correct?</p> <p>7     <b>A. No, ma'am, I did not.</b></p> <p>8     Q. You had testified earlier in this deposition</p> <p>9     that you had conducted a match of TEAM with the jury</p> <p>10    wheel list, correct?</p> <p>11    <b>A. That we matched TEAM with the DPS database used</b>  <b>12    for jury wheel, yes, ma'am.</b></p> <p>13    Q. Correct. And you had a list of voters who did</p> <p>14    not have state forms of -- who did not have a Texas</p> <p>15    driver license or a personal ID.</p> <p>16    <b>A. No, ma'am, that is not what I testified.</b></p> <p>17    Q. Could you clarify?</p> <p>18    <b>A. We did not have such a list. We've never had</b>  <b>19    such a list, and as far as I know such a list does not</b>  <b>20    exist.</b></p> <p>21    Q. Can you testify as to your understanding of</p> <p>22    what that matching list constituted and represented?</p> <p>23    <b>A. That list of persons were registered voters who</b>  <b>24    we could not prove had a state-issued ID, that we</b>  <b>25    couldn't match with a state-issued ID. That does not</b></p>
<p style="text-align: right;">50</p> <p>1     <b>deputy chief of staff. I can't think of his name to save</b>  <b>2     my life right now. But anyway, he -- he was the primary</b>  <b>3     point person for the Governor's Office on it.</b></p> <p>4     Q. Were you the point person for the Secretary of</p> <p>5     State's Office?</p> <p>6     <b>A. I along with our general counsel and our</b>  <b>7     deputy.</b></p> <p>8     Q. And who was the point of contact at DPS?</p> <p>9     <b>A. Duke Bodisch and Joe Peters.</b></p> <p>10    Q. Were there other means of reaching registered</p> <p>11    and eligible voters who lacked EICs that you considered?</p> <p>12    <b>A. One of the things that we had talked about was</b>  <b>13    Saturday hours at some of the higher traffic DPS offices.</b></p> <p>14    Q. Were there any other avenues of reaching voters</p> <p>15    without EICs that you contemplated?</p> <p>16         MR. KEISTER: Mr. Ingram, to the extent</p> <p>17    that's going into the deliberations of the office I'm</p> <p>18    going to instruct you not to answer that, and also to the</p> <p>19    extent that it invades the attorney-client privilege I'm</p> <p>20    going to instruct you not to answer that.</p> <p>21    Q. And I'm certainly not asking you about any</p> <p>22    conversations you've had with your attorneys, but were</p> <p>23    there other means or avenues of reaching voters that you</p> <p>24    contemplated?</p> <p>25    MR. KEISTER: Once again, to the extent</p>	<p style="text-align: right;">52</p> <p>1     mean that they did not have one, and in fact, we believe</p> <p>2     most of them do have one, we just didn't have the</p> <p>3     necessary information to show it.</p> <p>4     Q. What was the basis of your belief that most of</p> <p>5     them had the state forms of ID?</p> <p>6     <b>A. Because it's our understanding that most people</b>  <b>7     have a state-issued ID of some sort or another.</b></p> <p>8     Q. But for some reason they were not in the DPS</p> <p>9     driver license database?</p> <p>10    <b>A. No, ma'am. They didn't match with a person in</b>  <b>11    the DPS driver license database.</b></p> <p>12    Q. So it's your testimony that it was a matching</p> <p>13    problem, but that the 795,000 or 785,000 people you just</p> <p>14    testified about likely, because of matching issues,</p> <p>15    actually had state forms of ID; is that correct?</p> <p>16    <b>A. That's right.</b></p> <p>17    Q. And it's because the matching that you</p> <p>18    conducted was somehow flawed; is that correct?</p> <p>19    <b>A. The information that we use for matching</b>  <b>20    purposes has within it deficiencies, so what we have</b>  <b>21    associated with a registered voter are certain bits of</b>  <b>22    information. What the driver license database has</b>  <b>23    associated with a particular driver or state ID holder</b>  <b>24    are certain bits of information. Making those bits of</b>  <b>25    information match so that you feel comfortable it's the</b></p>

<p style="text-align: center;">53</p> <p>1 same person is a very complicated process and it's    2 subject to all the discrepancies between the data that    3 the same person can have. So I can be Keith Ingram in    4 the DPS database and I can be Brian Keith Ingram in the    5 voter registration database. You understand? So there's    6 all kinds of data entry issues that come into play, and    7 so matching those bits of information is a complicated    8 process that we do not have any certainty whatsoever.</p> <p>9 As a matter of fact, we believe that all    10 that 795 or 785 or 790, whatever it was, all that    11 represents is the most that could possibly not have an    12 ID, but we know it's a lot less than that. Even if they    13 don't have one of the state forms of issued ID, they    14 could have a military ID, a passport, they could have a    15 concealed carry, they could have a naturalization    16 certificate, they could have any of the things that are    17 on the 63.0101 list that we don't check for even if our    18 check was perfect.</p> <p>19 Q. Is there any other --</p> <p>20 A. And it's not.</p> <p>21 Q. -- basis of your understanding for that these    22 folks -- these unmatched people actually had state forms    23 of ID that you haven't already testified to?</p> <p>24 A. Yes. The fact that we've had two general    25 elections in Texas and the number of folks who have been</p>	<p style="text-align: center;">55</p> <p>1 mischaracterizes previous answers.</p> <p>2 A. That's what I was about to say. That's not    3 exactly what I said. What I said was -- you asked for    4 other bits of information, data points that we have to    5 confirm our belief that there's not 800,000 voters that    6 don't have an ID. That's one of them. Another one is    7 that we have a constant feedback loop with the public and    8 county election officials. We have realtime feedback    9 from the public, and we get thousands of phone calls    10 every month, and there has been absolutely almost no    11 phone calls, e-mails, problems related to lack of an ID.    12 The few that we've had have primarily related to elderly    13 folks who have been using an expired driver license but    14 don't drive anymore. That has been -- we've had maybe    15 three or four of those who have been unable to have an    16 ID, and obviously they can vote by mail. But as far as    17 a pattern of people who said, I don't have an ID, I don't    18 know what to do, how can I get one, doesn't exist.    19 Thousands of phone calls every month.</p> <p>20 We've got a public hotline that is on the    21 back of every voter registration card, and we get all    22 kinds of calls. We get calls because my name doesn't    23 match. We get calls because of a lot of reasons, but not    24 that I don't have an ID.</p> <p>25 Q. And it's true that you have not had a</p>
<p style="text-align: center;">54</p> <p>1 unable to present a state -- or one of the acceptable    2 forms of identification has been vanishingly small.</p> <p>3 Q. Isn't it true that for the last two elections    4 turnout has been quite low?</p> <p>5 A. Turnout has been -- I would say for the    6 constitutional amendment election it was up. For the    7 primary it was down a little bit off of 2010, but    8 consistent with the normal range of voters. There's not    9 any -- there's not any evidence that we've seen in the    10 turnout pattern that indicates anybody has been deterred    11 from voting. To the contrary.</p> <p>12 Q. Turnout is low for -- generally speaking, for    13 the statewide constitutional election, is it not?</p> <p>14 A. Sure.</p> <p>15 Q. It's a small percentage of registered voters,    16 is it not?</p> <p>17 A. Absolutely.</p> <p>18 Q. So when you say it's high, you're saying high    19 relative to similar elections; is that correct?</p> <p>20 A. Absolutely. Almost double the one before it.</p> <p>21 Q. And so it's your testimony that because there    22 were not a lot of people who were unable to produce IDs    23 in these low turnout elections of November 2013 and    24 March 2014 that people have state forms of ID?</p> <p>25 MR. KEISTER: Object to form,</p>	<p style="text-align: center;">56</p> <p>1 presidential election since SB 14 was -- has been    2 implemented; is that correct?</p> <p>3 A. That's true.</p> <p>4 Q. Is there any other basis of your understanding    5 that everyone on TEAM has a state form of ID?</p> <p>6 A. I object. Can I object? That ain't what I    7 said.</p> <p>8 MR. KEISTER: I'll object. Object to    9 form, mischaracterizes the previous testimony.</p> <p>10 A. Yeah, that's not what I said. What I said was    11 that of the 795,000, we know that there's not many --    12 that many people that don't have an ID, and we believe    13 that it is substantially less than that. How many it is    14 we don't know, and there is not such a list that exists    15 as far as I know. It can't exist. But based upon our    16 feedback from the public with regard to this process --    17 and this process, obviously, has made a lot of news    18 and -- and we've had a lot of phone calls because of it,    19 and because of the turnout in these elections and the    20 number of provisional voters based on ID, we believe that    21 the number is very small.</p> <p>22 Q. Who specifically in your office created this    23 list of your -- in your IT department?</p> <p>24 A. I don't know.</p> <p>25 Q. Who is the head of your IT department?</p>

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<p style="text-align: right;">57</p> <p>1     <b>A. The head of this particular division is</b>  2     Elizabeth Kirkwood, but I don't know which of the guys  3     actually did it.</p> <p>4     Q. Did you consider robocalling voters on this  5     list that you prepared in July 2013 to let them know  6     about SB 14 or the availability of EICs?</p> <p>7     <b>A. No, ma'am.</b></p> <p>8     Q. Why did you not consider that?</p> <p>9        MR. KEISTER: And by you, you're referring  10      to the office?</p> <p>11      Q. The office.</p> <p>12      <b>A. The Office of the Secretary of State doesn't</b>  13      <b>have their phone number and we don't have the resources</b>  14      <b>or the ability to contact the voters, and they're not our</b>  15      <b>voters, they're the counties' voters, and every single</b>  16      <b>voter in the state received, in 2011, a voter</b>  17      <b>registration card with a list of photo ID requirements</b>  18      <b>that would be in effect if preclearance happened and then</b>  19      <b>they got a voter registration card -- every single voter</b>  20      <b>in the state got a card at the end of 2013 with a list of</b>  21      <b>photo ID requirements. So every voter has been contacted</b>  22      <b>with regard to the need for a photo ID at the polling</b>  23      <b>place.</b></p> <p>24      Q. The voter registration card was reissued in  25      '13?</p>	<p style="text-align: right;">59</p> <p>1     <b>A. It is a Memorandum of Understanding between our</b>  2     <b>office and the Department of Public Safety.</b></p> <p>3     Q. When did your office and DPS enter into this  4     agreement?</p> <p>5     <b>A. It shows to be October 8th of 2013.</b></p> <p>6     Q. Why did you enter into this agreement?</p> <p>7     <b>A. To have a record of -- of -- of what our</b>  8     <b>offices had agreed to do jointly with regard to election</b>  9     <b>identification certificate mobile units.</b></p> <p>10    Q. Does it remain in effect today?</p> <p>11    <b>A. Yes, ma'am.</b></p> <p>12    Q. Are you aware of any law or regulation  13    requiring the Secretary of State's Office and DPS to  14    enter into this memorandum?</p> <p>15    <b>A. No, ma'am.</b></p> <p>16    Q. Are you aware of any law requiring the  17    Secretary of State or DPS to offer mobile EIC units, make  18    them available to voters?</p> <p>19    <b>A. No, ma'am.</b></p> <p>20    Q. Could the Secretary of State and DPS terminate  21    this agreement at any time?</p> <p>22    <b>A. I don't know. I don't know what it says. I</b>  23    <b>guess.</b></p> <p>24    MR. KEISTER: Don't guess.</p> <p>25    <b>A. Yeah, I don't know.</b></p>
<p style="text-align: right;">58</p> <p>1     <b>A. Yes.</b></p> <p>2     Q. So I believe you testified that mobile EIC  3     units were in operation in advance of November 2013. Is  4     that correct?</p> <p>5     <b>A. That's correct.</b></p> <p>6     Q. And you testified a bit about your involvement  7     in that program.</p> <p>8     <b>A. Right.</b></p> <p>9     Q. And the involvement was providing the equipment  10    for the units?</p> <p>11    <b>A. We bought the equipment and we interfaced with</b>  12    <b>the counties about locations to put the units, and that</b>  13    <b>was my job.</b></p> <p>14    Q. And DPS was involved in what capacity?</p> <p>15    <b>A. DPS made sure that the locations that were</b>  16    <b>proposed by the county election officials were sufficient</b>  17    <b>for the purpose and made sure that the equipment and the</b>  18    <b>personnel to run the equipment were on the location on</b>  19    <b>the dates needed.</b></p> <p>20    MS. WESTFALL: Could you mark this as 4.  21    (Exhibit No. 4 marked)</p> <p>22    Q. I've handed you what's been marked as  23    Exhibit 4. Do you recognize this document?</p> <p>24    <b>A. Yes, ma'am.</b></p> <p>25    Q. What is it?</p>	<p style="text-align: right;">60</p> <p>1     Q. Turning your attention to page 3, at VII,  2     Duration of Partnership, and on page -- continuing on to  3     page 4, do you see that it is effective on the date it's  4     executed and can terminate on written agreement of the  5     parties?</p> <p>6     <b>A. Right.</b></p> <p>7     Q. So is it your understanding that DPS and the  8     Secretary of State's Office could terminate this  9     agreement upon written agreement?</p> <p>10    <b>A. I guess we could. We certainly have no plans</b>  11    <b>to do so.</b></p> <p>12    Q. Is the future of mobile EI -- the EIC program  13    at the discretion of the Secretary of State and DPS?</p> <p>14    <b>A. And probably from input from the Governor's</b>  15    <b>Office, but yes.</b></p> <p>16    Q. Did the Governor's Office play any role in this  17    memorandum?</p> <p>18    <b>A. I don't know what you mean by played any role</b>  19    <b>They didn't sign it.</b></p> <p>20    Q. Did they participate in the development of the  21    terms of this memorandum?</p> <p>22    <b>A. I don't believe so. Not the actual terms,</b>  23    <b>no, ma'am.</b></p> <p>24    Q. Did they participate in the development of the  25    relationship between DPS and the Secretary of State's</p>

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<p style="text-align: center;">61</p> <p>1 Office to provide these units?</p> <p>2 MR. KEISTER: Mr. Ingram, to the extent</p> <p>3 that goes into deliberative process I'm going to instruct</p> <p>4 you not to -- not to answer that question. You can give</p> <p>5 the ultimate answer as to what they did, but in terms of</p> <p>6 how things were discussed and developed underlying the</p> <p>7 final determination I'm going to instruct you not to</p> <p>8 answer, as well as based on attorney-client.</p> <p>9 MS. WESTFALL: Mr. Keister, I am asking</p> <p>10 whether an office was involved. I'm not asking the</p> <p>11 substance of the involvement, recommendations, or any</p> <p>12 deliberations prior to a decision. I'm asking for an</p> <p>13 identity of an office that was involved, yes or no, and</p> <p>14 I think that's appropriate even assuming that</p> <p>15 deliberative process privilege is appropriately asserted</p> <p>16 here, which -- which -- which I'm not conceding.</p> <p>17 MR. KEISTER: You can answer that</p> <p>18 question, but don't go into the underlying discussions.</p> <p>19 Q. Was the Governor's Office involved in the terms</p> <p>20 of the memorandum?</p> <p>21 A. I don't believe --</p> <p>22 Q. Or the concept?</p> <p>23 A. I don't know if they were involved in the</p> <p>24 memorandum. They were involved in the development of the</p> <p>25 mobile EIC program, you bet.</p>	<p style="text-align: center;">63</p> <p>1 A. Yes.</p> <p>2 Q. Can you think of anyone else by name of who was</p> <p>3 involved?</p> <p>4 A. Sure. The chief of staff, Cathy Walt, was also</p> <p>5 involved.</p> <p>6 Q. It's Walt, W-A-L-T?</p> <p>7 A. Yes.</p> <p>8 Q. Anyone else?</p> <p>9 A. No, ma'am.</p> <p>10 Q. During what periods of time have the units been</p> <p>11 in operation from the time it started until the present?</p> <p>12 A. Right. The -- the -- it kind of depends on</p> <p>13 what phase you're talking about. Phase 2 units were in</p> <p>14 operation from middle of September until the week after</p> <p>15 election day, so I believe that would be through</p> <p>16 November 12th or so, and then they were put back into</p> <p>17 service in January of this year through March, and we</p> <p>18 actually, I believe, have restarted the program now</p> <p>19 building into the November election.</p> <p>20 Q. So what was Phase 1 of the mobile EIC unit</p> <p>21 program?</p> <p>22 A. I don't know. I think that Phase 1, there</p> <p>23 were -- there was initially an idea that there were some</p> <p>24 complex pieces of equipment on trailers, and I think that</p> <p>25 might be what the DPS refers to as Phase 1, but we didn't</p>
<p style="text-align: center;">62</p> <p>1 Q. Who was the person in the Governor's Office who</p> <p>2 was involved?</p> <p>3 A. I can't remember his --</p> <p>4 Q. Could you identify the title of the person in</p> <p>5 the Governor's Office involved?</p> <p>6 A. He's the deputy chief of staff, and I swear</p> <p>7 he's going to kill me if I can't remember his name, but</p> <p>8 I'm just drawing a blank.</p> <p>9 Q. If you remember at a break will you tell me a</p> <p>10 little bit later in the deposition?</p> <p>11 A. Certainly.</p> <p>12 Q. When was the Governor's Office involved in the</p> <p>13 development of the mobile EIC units?</p> <p>14 A. All the way, stem to stern, beginning to end,</p> <p>15 alpha and omega.</p> <p>16 Q. What time period was the office involved?</p> <p>17 A. I am not sure. It would have been sometime in</p> <p>18 July until it was underway.</p> <p>19 Q. Was anyone from the Lieutenant Governor's</p> <p>20 Office involved in the development of the mobile EIC unit</p> <p>21 program?</p> <p>22 A. No. They, I believe --</p> <p>23 MR. KEISTER: Just answer the question.</p> <p>24 Q. Was there more than one person involved at the</p> <p>25 Governor's Office in developing this program?</p>	<p style="text-align: center;">64</p> <p>1 ever use those.</p> <p>2 Q. Turn back to Exhibit 4. Do you see that it</p> <p>3 provides for 25 such units?</p> <p>4 A. Yes.</p> <p>5 Q. How was the decision made to provide 25 units?</p> <p>6 MR. KEISTER: Mr. Ingram, to the extent</p> <p>7 that calls for deliberative process, I'm going to give</p> <p>8 you the same instruction not to -- not to go into the</p> <p>9 underlying deliberations. To the extent that you can</p> <p>10 give the ultimate results, you're welcome to do so.</p> <p>11 A. I guess I can't answer.</p> <p>12 MR. BARON: Just for the record -- I've</p> <p>13 been quiet for like over an hour, which is a personal</p> <p>14 record. But it seems like we're entitled to know what</p> <p>15 they did and what they didn't do. I understand your</p> <p>16 objection to what went on behind the scenes in terms of</p> <p>17 why, but a lot of these questions, particularly the ones</p> <p>18 asking him what they did, don't seem to completely</p> <p>19 involve the deliberative process to me, Ronny, just as</p> <p>20 a general comment.</p> <p>21 MR. KEISTER: And I'm trying to walk that</p> <p>22 line and instruct him to answer as to what they did, but</p> <p>23 not to go into deliberations. I'm trying to do it as</p> <p>24 surgically as possible.</p> <p>25 MR. BARON: All right.</p>

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17 (Pages 65 to 68)

<p style="text-align: right;">65</p> <p>1 BY MS. WESTFALL:</p> <p>2 Q. Mr. Ingram, you could have provided 35 units, 3 correct?</p> <p>4 A. Well, obviously we have resource constraints. 5 This is -- we're having to move money from other places 6 in our budget to pay for this, and so there was 7 definitely an upper limit. So the goal is to have as 8 many units as would be useful for accomplishing the 9 purpose within the available resources.</p> <p>10 Q. Was 25 the upper limit or were there more that 11 you could have done that you decided not to do?</p> <p>12 A. Well, as it turned out, not. They were not -- 13 it was not against the upper limit. As initially 14 proposed from DPS it was very much the upper limit. So 15 the configuration of the mobile units changed in a way 16 that made them cheaper, so -- and at that point we had 25 17 committed.</p> <p>18 Q. I see. So you could have -- you could have 19 done more. You had more budget because you did it 20 cheaper than expected; is that correct?</p> <p>21 A. Well, there's two pieces to this. There's the 22 piece for the equipment that the Secretary of State was 23 responsible for and then there's the piece for the 24 personnel that DPS was going to be responsible for, and 25 so 25 could well have been very much where they felt like</p>	<p style="text-align: right;">67</p> <p>1 to engage in that discussion.</p> <p>2 Q. Did you conduct any analyses of the number of 3 mobile units needed to reach registered and eligible 4 voters without state forms of ID?</p> <p>5 A. No, ma'am.</p> <p>6 Q. And why not?</p> <p>7 A. Because we're missing one of the variables in 8 that equation.</p> <p>9 Q. Which is?</p> <p>10 A. The number of persons without an ID.</p> <p>11 Q. So is it your testimony that 25 was kind of 12 somewhat of an arbitrary number of units?</p> <p>13 A. I don't think it was arbitrary. I think that 14 25 was believed to be sufficient to have pretty good 15 coverage across the state in the time period that was 16 before the election.</p> <p>17 Q. And by coverage across the state what do you 18 mean?</p> <p>19 A. I mean coverage across the state.</p> <p>20 Q. In particular counties or areas of the state or 21 across the entire state?</p> <p>22 A. In the areas that we felt like would be 23 beneficial -- that it would be beneficial to have these. 24 Like I said before, there were two primary drivers of 25 where the mobile EIC units would go. Number one, we</p>
<p style="text-align: right;">66</p> <p>1 they could go.</p> <p>2 Q. For your original budget, correct?</p> <p>3 A. Right.</p> <p>4 Q. And then you were able to do it less 5 expensively, and you could have done more, but you 6 didn't. Is that your testimony?</p> <p>7 A. No, ma'am. No, ma'am. I'm saying that as far 8 as the Secretary of State on the equipment piece, we 9 could have done a few more, but I don't know if DPS could 10 have serviced more in an effective way.</p> <p>11 Q. Did you offer DPS the additional units and they 12 declined because of the cost of personnel?</p> <p>13 A. No, ma'am.</p> <p>14 Q. Did you let them know that you had additional 15 units available or did you not communicate that to DPS?</p> <p>16 A. We didn't have additional units available.</p> <p>17 Q. But you had budget for additional units; is 18 that correct?</p> <p>19 A. We didn't have budget for any of this.</p> <p>20 Q. Was it your testimony you had capacity to do 21 more than 25?</p> <p>22 A. We could conceivably have done more than 25.</p> <p>23 We did not feel that more than 25 was necessary, and I 24 don't know if that would have been up against DPS' 25 resource constraints or not because it wasn't necessary</p>	<p style="text-align: right;">68</p> <p>1 wanted to make sure that rural voters had access at a 2 fairly close distance, so we wanted to spread them out in 3 the rural parts of Texas, and we had ZIP codes where we 4 had significant numbers of non-matches that we wanted to 5 target. So the combination of those two purposes, we 6 felt like 25 was sufficient to cover it.</p> <p>7 Q. The basis of your understanding as to where 8 there were large concentrations of voters without ID was 9 based on your list or based on -- based on what?</p> <p>10 A. I did not have an understanding that there were 11 large concentrations of voters without an ID. I had an 12 understanding that there -- we had an understanding that 13 there were large concentrations of voters that didn't 14 match with an ID.</p> <p>15 Q. And that was the basis of where you came up 16 with the 25?</p> <p>17 A. No, ma'am.</p> <p>18 Q. What is your testimony on this?</p> <p>19 A. That there were two primary drivers for where 20 the mobile election identification certificate units 21 would go. Number one, we wanted to have sufficient to 22 reach that crescent of Texas from El Paso down to 23 Cameron County where it's very rural and up in the 24 Panhandle where it's very rural. We wanted to make sure 25 that we had some representation in those counties where</p>

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18 (Pages 69 to 72)

<p>69</p> <p>1 rural voters live. The other consideration was we wanted    2 to make sure that where we had identified non-matches by    3 ZIP code, that there were EIC units in reasonably close    4 proximity to those ZIP codes sometime before the    5 election.</p> <p>6 Q. I see. And the ZIP code analysis was based on    7 your July 2013 matching process; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. And your concern about rural voters along the    10 border of Mexico, is that -- were you concerned about    11 counties without existing driver license offices or were    12 you just concerned about the driving distance in those    13 counties or both?</p> <p>14 MR. KEISTER: Object that that    15 mischaracterized the previous testimony.</p> <p>16 A. Yeah. The goal was to make sure that those    17 very large counties along the border had the availability    18 of EIC units, you know, sprinkled around.</p> <p>19 Q. Did the Secretary of State's Office determine    20 the particular locations within each county in which to    21 locate a mobile EIC unit?</p> <p>22 A. It was a collaborative effort between the    23 county, our office, and DPS.</p> <p>24 Q. How did that -- how did that work?</p> <p>25 A. I would call the county election official,</p>	<p>71</p> <p>1 where to locate these units besides the July 2013 list?</p> <p>2 A. No, ma'am.</p> <p>3 Q. And when you were consulting the July 2013 list,    4 did you rely upon that information for any other    5 decisions about mobile EIC units besides the location?</p> <p>6 A. No, ma'am.</p> <p>7 Q. In other words, you didn't rely upon that list    8 to determine the hours of operation, the days of    9 operation, et cetera?</p> <p>10 A. No, ma'am.</p> <p>11 Q. And did you rely upon the July 2013 list to    12 determine the total number of mobile EIC units?</p> <p>13 A. No, ma'am.</p> <p>14 Q. Who in your office consulted the list to    15 determine the locations of mobile EIC units?</p> <p>16 A. Myself, our general counsel, Mr. Jackson, and    17 deputy secretary of state.</p> <p>18 Q. Mr. Shorter?</p> <p>19 A. Mr. Shorter.</p> <p>20 Q. Anyone else?</p> <p>21 A. I don't believe so.</p> <p>22 Q. Did you rerun this jury wheel DPS list against    23 TEAM for the purposes of locating EIC mobile units in    24 advance of the March 2014 election?</p> <p>25 A. No, ma'am.</p>
<p>70</p> <p>1 usually the voter registrar, sometimes the county clerk,    2 and if there was an election administrator I would call    3 them, and ask them where they thought it would be useful    4 to have an election identification certificate mobile    5 unit. They would identify potential places. We would    6 submit those to the Department of Public Safety.    7 Department of Public Safety would vet them for    8 sufficiency, and sometimes they would say that they are    9 not sufficient and we need to find someplace else, and    10 they would tell me and I would call the county and the    11 county would find an alternate location.</p> <p>12 Q. So the communications were between your office    13 and the county election officials; is that right?</p> <p>14 A. It was between me and the county election    15 officials, yes, ma'am.</p> <p>16 Q. Okay. Great. And what was the split between    17 coverage that you were providing in rural areas versus    18 coverage with ZIP -- the ZIP codes with large    19 concentrations of persons on this July 2013 list?</p> <p>20 A. I don't know. It was -- it was -- it varied,    21 so sometimes we would have more in cities and less in the    22 rural and sometimes we would have more in the rural and    23 less in the cities, so it just -- it just depended on    24 where they were that week.</p> <p>25 Q. Did you consult any other list to determine</p>	<p>72</p> <p>1 Q. Why did you not do that?</p> <p>2 A. Because it was not a useful tool.</p> <p>3 Q. And why is that?</p> <p>4 A. Because it did not result in any usage of the    5 EIC program on the local basis.</p> <p>6 Q. Do you plan to rerun this matching process in    7 advance of the November 2014 election?</p> <p>8 A. No, ma'am.</p> <p>9 Q. For the same reasons you just testified to?</p> <p>10 A. That's correct.</p> <p>11 Q. Turning back to October 2013, did any county    12 request a mobile EIC unit in its county?</p> <p>13 A. Yes.</p> <p>14 Q. Which counties?</p> <p>15 A. I don't know if I remember.</p> <p>16 Q. Do you remember any?</p> <p>17 A. Yeah, there were several. I just don't    18 remember off the top of my head who made specific    19 requests. I know that Carolyn Guidry over in Jefferson    20 County wanted to make sure that we came her direction.    21 I'm pretty sure that Jacque Callanan down in    22 Bexar County, she had a county commissioner or city    23 council person that wanted one in his precinct or    24 district. I don't know which it was. And so we had    25 requests like that from several people, I just don't know</p>

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19 (Pages 73 to 76)

<p style="text-align: center;">73</p> <p>1 off the top of my head where they were.</p> <p>2 Q. How many counties would you say?</p> <p>3 A. I don't know.</p> <p>4 Q. Half a dozen? Dozen?</p> <p>5 A. Maybe.</p> <p>6 Q. Dozen?</p> <p>7 A. Maybe a dozen. Probably between half a dozen</p> <p>8 and a dozen.</p> <p>9 Q. Did you grant all those requests and locate</p> <p>10 mobile EIC units in those counties?</p> <p>11 A. Sure.</p> <p>12 Q. Were any denied?</p> <p>13 A. I don't think so.</p> <p>14 Q. Did you try to provide equal access -- other</p> <p>15 than what you've just testified that it's split between</p> <p>16 the rural and the concentrations of voters, did you try</p> <p>17 to provide equal access to mobile EIC units to all voters</p> <p>18 without a qualifying ID?</p> <p>19 A. Yes.</p> <p>20 Q. Did you make any particular efforts to locate</p> <p>21 the units in areas with high concentrations of minority</p> <p>22 voters?</p> <p>23 A. No. You know, we did want to make sure that</p> <p>24 Hidalgo and Cameron County were well represented, as well</p> <p>25 as El Paso, but that wasn't primarily because there are</p>	<p style="text-align: center;">75</p> <p>1 Q. Did you -- did your office suggest any</p> <p>2 locations that DPS rejected?</p> <p>3 A. Specific locations, yes.</p> <p>4 Q. Which were those locations?</p> <p>5 A. I think over in Liberty County there was a</p> <p>6 place that the local election administrator thought would</p> <p>7 be good that DPS didn't think was sufficient, and they</p> <p>8 ended up doing it at a place in the next block, stuff</p> <p>9 like that where a particular location, for whatever</p> <p>10 reason, didn't meet DPS' requirements and it would be</p> <p>11 moved to a different location in close proximity.</p> <p>12 Q. What was the basis of DPS' concern?</p> <p>13 A. I don't know.</p> <p>14 Q. Can you think of any other examples where DPS</p> <p>15 vetoed the decision about where to put a mobile unit?</p> <p>16 A. No, ma'am.</p> <p>17 Q. Just Liberty County?</p> <p>18 A. It was either Liberty or Hardin or Orange. It</p> <p>19 was one of those over there north of Jefferson County, in</p> <p>20 that area of Texas. I don't remember which one</p> <p>21 specifically it was. I believe it was Liberty, but it</p> <p>22 could have been Hardin and it could have been Orange.</p> <p>23 Q. Did you consider locating mobile EIC units</p> <p>24 close to early voting locations?</p> <p>25 A. As the early voting began that was one of the</p>
<p style="text-align: center;">74</p> <p>1 minorities there, it's because there were ZIP codes with</p> <p>2 significant numbers of non-matches. And so, you know, I</p> <p>3 don't know if we necessarily had in mind -- we wanted to</p> <p>4 make sure that -- in Houston at the Holman Street Baptist</p> <p>5 Church they had a mobile EIC unit almost the whole time</p> <p>6 before the November 2013 election, and there were two</p> <p>7 purposes for that. There was several ZIP codes in that</p> <p>8 area with -- with high concentrations of voters and the</p> <p>9 University of Houston was pretty close to it as well, so</p> <p>10 we were kind of killing two birds with one stone there.</p> <p>11 Q. But your testimony is you supplied the mobile</p> <p>12 EIC units uniformly across all voters without a state ID,</p> <p>13 to the best of your knowledge.</p> <p>14 MR. KEISTER: Object to form.</p> <p>15 A. I don't think that we -- that it's possible to</p> <p>16 do that because we don't know who doesn't have a state</p> <p>17 ID.</p> <p>18 Q. Did you make any particular efforts to target</p> <p>19 low income voters?</p> <p>20 A. I don't know. You know, I don't know if low</p> <p>21 income was specifically a requirement. We don't have any</p> <p>22 idea where low income is, but some of the places that we</p> <p>23 went probably would be characterized as low income</p> <p>24 places, rural Texas and some of the -- some of the ZIP</p> <p>25 codes inside the cities.</p>	<p style="text-align: center;">76</p> <p>1 things that I talked to county election officials about</p> <p>2 was saying it would be a good idea if you could have an</p> <p>3 EIC unit either in the same building as an early voting</p> <p>4 location or across the street from it, yes.</p> <p>5 Q. Did that happen?</p> <p>6 A. Yes.</p> <p>7 Q. In what counties?</p> <p>8 A. I don't know.</p> <p>9 Q. How many counties?</p> <p>10 A. Several.</p> <p>11 Q. Did it not happen in certain counties because</p> <p>12 it wasn't -- for whatever reason?</p> <p>13 A. No, I think all the places that we talked about</p> <p>14 it, it was -- that was their concern is the place where</p> <p>15 we would have this is close to the early voting, and I</p> <p>16 said that's good, that's useful. So no, I don't think</p> <p>17 that it didn't happen. You know, there was no resistance</p> <p>18 to the idea.</p> <p>19 Q. Was the mobile EIC unit in operation at the</p> <p>20 same time early voting was being conducted or different</p> <p>21 days?</p> <p>22 A. At the same time, in close proximity, once</p> <p>23 early voting began. Mobile units were in place before</p> <p>24 early voting began.</p> <p>25 Q. What were DPS' particular requirements for</p>

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20 (Pages 77 to 80)

<p style="text-align: center;">77</p> <p>1 location?</p> <p>2     <b>A. I don't know.</b></p> <p>3     Q. Do you know who at DPS would know?</p> <p>4     <b>A. I don't know for sure. Tony Rodriguez was the</b>  <b>5 one for DPS who was overseeing the operation, so maybe he</b>  <b>6 would know. Maybe it would be the regional people</b>  <b>7 underneath him. I don't know.</b></p> <p>8     Q. In any counties was there anything that  9     prevented you from working with a county to locate a  10    mobile EIC unit close to early voting?</p> <p>11    <b>A. No, ma'am.</b></p> <p>12    Q. Did you consider locating mobile EIC units in  13    polling places on election day?</p> <p>14    <b>A. No, that was not considered.</b></p> <p>15    Q. Why did you not consider that?</p> <p>16    <b>A. Because we don't want anything extra at a</b>  17    <b>polling place.</b></p> <p>18    Q. And what do you mean by that?</p> <p>19    <b>A. I mean that polling places are for voting, not</b>  20    <b>for other stuff. Now, if a polling place has a room down</b>  21    <b>the hall from the polling place where an EIC unit could</b>  22    <b>go, that was definitely considered, but in the polling</b>  23    <b>location itself, no, ma'am.</b></p> <p>24    Q. What was the basis of your concern about having  25    those two activities in the same room?</p>	<p style="text-align: center;">79</p> <p>1     Q. But are you aware of whether EIC issuance was  2     available in the same building as polling places on  3     election day in 2013?</p> <p>4     <b>A. I don't know on election day itself. Maybe, or</b>  5     <b>across the street or down the block, but they probably</b>  6     <b>were close.</b></p> <p>7     Q. Were EICs issued on election day in mobile EIC  8     units at all?</p> <p>9     <b>A. I don't know.</b></p> <p>10    Q. Did you consider whether to locate mobile EIC  11    units where they were accessible to public transit?</p> <p>12    <b>A. I don't know. You know, that would have been</b>  13    <b>a local county election official's decision on whether or</b>  14    <b>not to put one close to a bus stop or a train stop, and I</b>  15    <b>don't know if any of these places had that consideration</b>  16    <b>in mind.</b></p> <p>17    Q. Does the elections division conduct voter  18    registration drives?</p> <p>19    <b>A. No, ma'am.</b></p> <p>20    Q. Did you consider -- were any mobile EIC units  21    located in public schools or near public schools?</p> <p>22    <b>A. High schools?</b></p> <p>23    Q. Yes.</p> <p>24    <b>A. I don't know.</b></p> <p>25    Q. Were any located near -- near or in social</p>
<p style="text-align: center;">78</p> <p>1     <b>A. That we don't have anything besides voting</b>  2     <b>going on in polling places. That's -- that's the law.</b></p> <p>3     <b>That's what we do.</b></p> <p>4     Q. Is there a legal prohibition against issuing  5     EICs in the same room?</p> <p>6     <b>A. Yes, 61.001 of the Election Code.</b></p> <p>7     Q. Nothing else can occur in that room?</p> <p>8     <b>A. Nobody else can be in that room unless they're</b>  9     <b>a worker or voting.</b></p> <p>10    Q. In October 2013 or September --</p> <p>11      MS. WESTFALL: Strike that.</p> <p>12    Q. In -- on election day, November 5, 2013, did  13    you have EICs being issued in the same building as a  14    polling place in any county across the state?</p> <p>15    <b>A. Sure.</b></p> <p>16    Q. What county?</p> <p>17    <b>A. I don't know. I'd have to go back and look and</b>  18    <b>see where they were and when they were. But yeah, that</b>  19    <b>was a common occurrence.</b></p> <p>20    Q. Are you certain that there were EICs issued on  21    election day?</p> <p>22    <b>A. Oh, issued. I'm sorry. I didn't hear the</b>  23    <b>question well. I don't know if there were any EICs</b>  24    <b>issued at all, period, through this whole program. That</b>  25    <b>would be a DPS question.</b></p>	<p style="text-align: center;">80</p> <p>1     services offices?</p> <p>2     <b>A. I think so, yes, ma'am.</b></p> <p>3     Q. In what counties?</p> <p>4     <b>A. I don't know for sure. You'd have to ask the</b>  5     <b>county election officials how close the proximity was.</b></p> <p>6     <b>But, you know, this one that I'm talking about over in</b>  7     <b>Liberty or Orange or Hardin, wherever it was, was close</b>  8     <b>to a benefit office. But anyway, that happened all over.</b></p> <p>9     <b>The government offices are usually clustered together.</b></p> <p>10    Q. Turn your attention back to Exhibit 4, Section  11    IV. Do you see that under the list of equipment on  12    page 2 of this exhibit it lists -- it states that SOS  13    will notify DPS in writing of the final location at least  14    two full business days in advance of the start date of  15    operations?</p> <p>16    <b>A. That's right.</b></p> <p>17    Q. Why was there only two days advanced notice of  18    the location of the operation?</p> <p>19    <b>A. We tried, obviously, to have more notice than</b>  20    <b>that, but that was the minimum amount of notice that DPS</b>  21    <b>could operate within.</b></p> <p>22    Q. Did you feel that that was adequate notice?</p> <p>23    <b>A. Adequate notice for who?</b></p> <p>24    Q. DPS.</p> <p>25    <b>A. I don't know if it was adequate notice for DPS</b></p>

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21 (Pages 81 to 84)

<p style="text-align: center;">81</p> <p>1   <b>or not. We generally gave them more notice than that.</b>  2   <b>So I don't know.</b>  3   Q. Do you think two days notice of where a  4   location will be would be adequate notice for voters or  5   for county officials?  6   <b>A. I don't know. Adequate notice for what?</b>  7   Q. To provide notice to voters about the  8   availability of these services.  9   <b>A. Well, like I said, we generally gave more</b>  10   <b>notice than that. This was the minimum that DPS</b>  11   <b>required. This doesn't have anything to do with notice</b>  12   <b>to the public of the location.</b>  13   Q. But do you think two days is adequate notice to  14   DPS?  15        MR. KEISTER: Object.  16        <b>A. They agreed to it. I don't know.</b>  17        Q. Did the Secretary of State's Office have any  18        concern that providing two days notice would not allow  19        sufficient time to provide notice to voters about the  20        availability of the EICs?  21        <b>A. The two-day notice requirement doesn't have</b>  22        <b>anything to do with notice to voters.</b>  23        Q. If voters -- explain that.  24        <b>A. That we endeavored to give as much notice as we</b>  25        <b>could give so that the county and us and DPS had a final</b></p>	<p style="text-align: center;">83</p> <p>1   was always more than two days?  2   <b>A. No, ma'am.</b>  3   Q. Sometimes it was two days?  4   <b>A. Probably.</b>  5   Q. Do you recall what counties in which it was  6   only two days notice?  7   <b>A. I have no idea.</b>  8   Q. Which agencies or entities actually staffed the  9   mobile EIC units?  10   <b>A. The DPS.</b>  11   Q. Did the DPS contract with county -- county  12   employees to staff those units or was it actually DPS  13   employees in all of these units?  14   <b>A. If we're talking about the 25 mobile EIC units,</b>  15   <b>it was DPS staffed. If we're talking about the Phase 3</b>  16   <b>units for permanent county placement, then it's a mixture</b>  17   <b>of county and DPS.</b>  18        MR. KEISTER: Elizabeth, when you get to  19        a good spot could we consider a break?  20        MS. WESTFALL: Oh, yeah. Do you want to  21        take one right now?  22        MR. KEISTER: Are you ready?  23        MS. WESTFALL: Sure, we can go on break.  24        Let's go off the record.  25        (Recess from 10:28 a.m. to 10:46 a.m.)</p>
<p style="text-align: center;">82</p> <p>1   <b>location. We preferred a week. We preferred two weeks,</b>  2   <b>but sometimes it wasn't possible. The minimum notice</b>  3   <b>that DPS required in order to make a functioning EIC unit</b>  4   <b>at a place was two days. I don't know of very many</b>  5   <b>instances where it came down to two days. Obviously the</b>  6   <b>goal was to have as much advanced notice as possible,</b>  7   <b>especially in rural areas where the newspaper comes out</b>  8   <b>once every two weeks. So yes, if it was too late to get</b>  9   <b>into the newspaper for a rural area, then the local</b>  10   <b>election official was on the radio and whatever local</b>  11   <b>television news they could get. There were stories all</b>  12   <b>over the state trying to get the word out to the public,</b>  13   <b>so sometimes there was more time to get word out to the</b>  14   <b>public, sometimes there wasn't as much time, but usually</b>  15   <b>the places where it was less time for notice to the</b>  16   <b>public were during early voting, and the primary goal of</b>  17   <b>those places was if somebody showed up without an ID, to</b>  18   <b>send them down the road, and there's not as much need for</b>  19   <b>notice to the general public for those places.</b>  20        Q. So what was the least amount of notice that you  21        can recall providing DPS?  22        <b>A. I don't know.</b>  23        Q. Was it five days? four days?  24        <b>A. I don't know.</b>  25        Q. But it was -- it was -- is it your testimony it</p>	<p style="text-align: center;">84</p> <p>1        (Exhibit No. 5 marked)  2   BY MS. WESTFALL:  3        Q. Mr. Ingram, I'm handing you what's been marked  4        as Exhibit 5. Do you recognize this document?  5        <b>A. Yes.</b>  6        Q. What is it?  7        <b>A. It is the proposed agreement between DPS and</b>  8        <b>counties who are going to issue EICs locally.</b>  9        Q. It allows, but does not require, counties to  10        perform certain processing services of EIC applicants; is  11        that right?  12        <b>A. I'm not sure what you mean.</b>  13        Q. In other words, counties can voluntarily enter  14        into this agreement; is that correct?  15        <b>A. That's right.</b>  16        Q. Counties can determine if they want to  17        participate; is that right?  18        <b>A. They can.</b>  19        Q. Are you aware of any legal obligation of any  20        county to participate in this program?  21        <b>A. No, ma'am.</b>  22        Q. And counties -- this Exhibit 5, the Interlocal  23        Cooperation Contract, indicates that counties can set the  24        hours of operation; is that correct?  25        <b>A. That's correct.</b></p>

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22 (Pages 85 to 88)

<p style="text-align: right;">85</p> <p>1 Q. Did any counties sign this contract?  2 A. <b>I don't know for sure.</b>  3 Q. Were you involved in the process of reaching  4 agreement between counties and DPS on this contract?  5 A. <b>Yes.</b>  6 Q. Was this contract used for the mobile EIC unit  7 program in September and October 2013?  8 A. <b>It did not -- this is not something that would</b>  9 <b>be used with regard to the 25 mobile EIC units under</b>  10 <b>Phase 2. This is a Phase 3 document.</b>  11 Q. Could you describe what this contract pertains  12 to with regard to Phase 3?  13 A. <b>It is the agreement under which DPS would</b>  14 <b>provide the equipment to the counties as well as the</b>  15 <b>training for them to issue EICs on a local basis and on</b>  16 <b>a continuing basis.</b>  17 Q. Was this in effect for February 2013?  18 A. <b>I'm not sure what you mean.</b>  19 Q. Was this contract -- I'm sorry.  20 MS. WESTFALL: Strike that.  21 Q. Did counties staff the mobile EIC units and  22 provide employees in 2014?  23 A. <b>Well, I don't know for sure. It's my</b>  24 <b>understanding that we've got as many as 40 counties, and</b>  25 <b>probably more than that now, who have signed this</b></p>	<p style="text-align: right;">87</p> <p>1 A. <b>I believe it's more than 40 now. I don't know</b>  2 <b>how many more than 40. I don't have current data.</b>  3 Q. When did this contract get underway with the  4 counties?  5 A. <b>It was -- it was something that came along</b>  6 <b>after we had begun the Phase 2 units, but pretty closely</b>  7 <b>in proximity thereto, so I would say October of 2013 this</b>  8 <b>was of primary focus.</b>  9 Q. So after October DPS started the process of  10 entering into these agreements with counties?  11 A. <b>No, ma'am. During October they would have</b>  12 <b>started this process.</b>  13 Q. But the counties -- when was the earliest that  14 the counties started issuing EICs under this contract?  15 A. <b>I can't say for certain, but it would have been</b>  16 <b>in October of 2013. I just don't know if it would have</b>  17 <b>been the first week or the middle or maybe the third</b>  18 <b>week, but it would have been in October of 2013 that</b>  19 <b>the -- the early adopters would have started.</b>  20 Q. I see. And so prior to the November 2014  21 election it was a mix of DPS employees and county  22 employees that were staffing the mobile EIC units? I  23 mean, it was -- it varied by office? Is that your  24 testimony?  25 A. <b>It varied by program. So for the -- for the</b></p>
<p style="text-align: right;">86</p> <p>1 agreement who are issuing EICs or are able to issue EICs  2 currently, and I don't know how many counties joined,  3 officially, the program over time, but I -- I just --  4 there were counties who had the equipment who had signed  5 the agreement who were issuing EICs in February of 2014,  6 yes, ma'am.  7 Q. Who would know the most about the status of the  8 Interlocal Cooperation Contracts?  9 A. <b>Over at the Department of Public Safety.</b>  10 Q. Who in particular at DPS would know about this?  11 A. <b>I don't know for sure. Probably Joe Peters</b>  12 <b>would know, and I would imagine Tony Rodriguez would know</b>  13 <b>as well, probably not as much as Joe.</b>  14 Q. So Mr. Peters was the primary point of contact  15 for these contracts?  16 A. <b>He's the one that's in charge of the division</b>  17 <b>that does this program, or the deputy chief. I'm not</b>  18 <b>sure what his exact title is, but he's the operations</b>  19 <b>hands-on guy.</b>  20 Q. Do you know whether of the -- I think it was 79  21 counties that you testified about that don't have driver  22 license offices.  23 A. <b>Right.</b>  24 Q. And you just testified about 40 of them have  25 agreed to participate in this program; is that correct?</p>	<p style="text-align: right;">88</p> <p>1 counties who had undergone the training, who had accepted  2 the equipment from the state, they were issuing the EICs.  3 The DPS would pick up that data from the counties and run  4 it through their process. So for those Phase 3 units it  5 was county only. For the 25 mobile EIC units in Phase 2,  6 DPS was staffing those, so it was only DPS officials. So  7 it was not a mix of DPS and counties staffing the units.  8 There were two different programs going on, one staffed  9 by the counties and one staffed by the DPS.  10 Q. Thank you for your testimony. What was the  11 Secretary of State's involvement in the Interlocal  12 Cooperation Contracts?  13 A. <b>Our -- our role in Phase 3 was to sort of act</b>  14 <b>as go-between between the counties and DPS to make</b>  15 <b>introductions and hand them off to the Department of</b>  16 <b>Public Safety.</b>  17 Q. So Phase 2 -- just so I have it clear in my  18 mind, Phase 2 is the mobile EIC units run by DPS, the 25  19 that you testified about?  20 A. <b>The 25 mobile units that are the subject of the</b>  21 <b>Memorandum of Understanding that's Exhibit 4.</b>  22 Q. I see. And that was in advance of both the  23 November 2013 election and the March 2014 election?  24 A. <b>That's right, and the November of 2014 election</b>  25 <b>as well.</b></p>

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23 (Pages 89 to 92)

<p style="text-align: right;">89</p> <p>1 Q. I see. And then this county program is 2 separate and apart, and you refer to it as Phase 3; is 3 that correct?</p> <p>4 <b>A. That's correct.</b></p> <p>5 Q. Do you see that in Exhibit 5, the Interlocal 6 Cooperation Contract, that counties are not paid for 7 their services?</p> <p>8 <b>A. Yes.</b></p> <p>9 Q. Why would counties want to participate in this 10 program?</p> <p>11 <b>A. To help their voters.</b></p> <p>12 Q. Did any counties complain that this was an 13 unfunded mandate and refuse to participate on that basis?</p> <p>14 <b>A. There were some counties who were concerned 15 about how much time it would take and how much effort it 16 would take and that it was unfunded, and I think that, 17 you know, a significant number of counties had those 18 concerns alleviated.</b></p> <p>19 Q. How were they alleviated?</p> <p>20 <b>A. By me.</b></p> <p>21 Q. Did you get them some budget or funding or did 22 you encourage them to participate?</p> <p>23 <b>A. I encouraged them to participate and that it 24 would be not a high stress, high demand product, that it 25 would be a once in a while thing and it wouldn't tax them</b></p>	<p style="text-align: right;">91</p> <p>1 participation?</p> <p>2 <b>A. I don't know. I haven't had anything to do 3 with this program since the initial handoff to DPS. That 4 would be a Department of Public Safety question.</b></p> <p>5 Q. And under this contract -- so this contract, 6 Exhibit 5, is not signed, correct?</p> <p>7 <b>A. Correct.</b></p> <p>8 Q. Is this the contract that -- to your knowledge, 9 that was used with all counties?</p> <p>10 <b>A. As far as I know. You know, some of them, 11 after I had contacted them to see if they had signed it, 12 would send it back to me, and so this looks like what I 13 saw.</b></p> <p>14 Q. Is this the standard contract that's been used 15 with all the counties, to your knowledge?</p> <p>16 <b>A. As far as I know it is.</b></p> <p>17 Q. There haven't been any changes, to your 18 knowledge?</p> <p>19 <b>A. I don't know of any.</b></p> <p>20 Q. And do you see that -- under Terms and 21 Conditions on page 1, that either party can voluntarily 22 cancel this contract for any reason with 30 days notice?</p> <p>23 <b>A. Which paragraph?</b></p> <p>24 Q. Under IV, Terms and Conditions, on page 1, 25 under paragraph 2, Termination, either party can</p>
<p style="text-align: right;">90</p> <p>1 <b>unnecessarily.</b></p> <p>2 Q. Which were these counties?</p> <p>3 <b>A. I don't know. I talked to a lot of counties.</b></p> <p>4 Q. How many counties did you talk to?</p> <p>5 <b>A. Seventy-nine.</b></p> <p>6 Q. What period of time did you have these 7 conversations?</p> <p>8 <b>A. October of 2013.</b></p> <p>9 Q. You talked to all 79 in October 2013?</p> <p>10 <b>A. Multiple times.</b></p> <p>11 Q. And the final -- the end result as of today is 12 that 40 counties are participating; is that correct?</p> <p>13 <b>A. I think it's more than that. I don't know how 14 many more.</b></p> <p>15 Q. But you did not provide them with any funding 16 to do this work, did you?</p> <p>17 <b>A. No, ma'am. We provided the equipment and the 18 training.</b></p> <p>19 Q. And according to this contract, under paragraph 20 13, counties have to certify that they have the budget 21 currently to conduct this program; is that correct?</p> <p>22 <b>A. Well, it looks like both parties have to make 23 that assertion.</b></p> <p>24 Q. Has this part of the contract proven 25 problematic for any counties in terms of county</p>	<p style="text-align: right;">92</p> <p>1 terminate at any time with 30 days notice. Do you see 2 that?</p> <p>3 <b>A. Yes.</b></p> <p>4 Q. So it's pretty -- I mean, a party can -- the 5 county could unilaterally terminate its participation in 6 this contract; is that right?</p> <p>7 <b>A. According to this it looks like they could on 8 30 days notice, yes, ma'am.</b></p> <p>9 Q. And counties, because they're not paid and 10 they're not legally obligated to, as you just testified, 11 participate, they are the ones who determine whether they 12 want to participate; is that right?</p> <p>13 <b>A. Counties who participate in this program do so 14 voluntarily, yes, ma'am.</b></p> <p>15 MS. WESTFALL: Could you mark this. 16 (Exhibit No. 6 marked)</p> <p>17 Q. I'm handing you what's been marked as 18 Exhibit 6. Do you recognize this document?</p> <p>19 <b>A. No, ma'am.</b></p> <p>20 Q. Could you take a look to review it? While 21 you're looking --</p> <p>22 MS. WESTFALL: Could you mark this one. 23 (Exhibit No. 7 marked)</p> <p>24 Q. I'm handing you what's been marked as 25 Exhibit 7. Have you seen this document?</p>

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24 (Pages 93 to 96)

<p style="text-align: center;">93</p> <p>1     <b>A. I don't believe so, no, ma'am.</b>      2     Q. Do you know what it represents?      3     <b>A. No, ma'am.</b>      4     Q. I will represent to you, and I'm sure your      5     counsel will not object to this representation, that      6     these documents were attached -- were produced in      7     conjunction with Defendants' interrogatory responses in      8     this action. Could you take a quick look at this -- both      9     of Exhibit 6 and Exhibit 7 and let me know when you've      10    had a chance to scan them?      11    <b>A. (Reviewing documents) Okay.</b>      12    Q. Do you believe that Exhibit 6 is a final list      13    of mobile stations issuing EICs in October 2013?      14    <b>A. No, ma'am.</b>      15    Q. What makes you say that?      16    <b>A. Because this doesn't have any of ours on it.</b>      17    Q. And by ours, you mean?      18    <b>A. The Phase 2 units.</b>      19    Q. What list do you believe this -- what does this      20    represent to your mind?      21    <b>A. I don't know.</b>      22    Q. And turning your attention to Exhibit 7, do you      23    know what this represents?      24    <b>A. I do not.</b>      25    Q. Do you know whether there was a reduction in</p>	<p style="text-align: center;">95</p> <p>1     lists of mobile stations -- do they encompass all of the      2     mobile stations staffed by DPS in October 2013 and      3     February 2014?      4     <b>A. No, ma'am.</b>      5     Q. So these are not complete lists, to the best of      6     your knowledge --      7     <b>A. No.</b>      8     Q. -- as to where any subset, Phase 2, Phase 3,      9     et cetera -- these are not complete final lists of mobile      10    EIC unit locations?      11    <b>A. No. If I -- well, I don't want to guess, but</b>      12    <b>if I were going to guess about what these are I would say</b>      13    <b>that these are Phase 3 counties that haven't yet accepted</b>      14    <b>the training where the DPS is going to provide EIC</b>      15    <b>services. That is my best speculation, which I'm sure my</b>      16    <b>lawyer doesn't like.</b>      17    Q. Okay. Turning your attention back to Exhibit 6      18    and 7, these refer to dates in the past, October and      19    February. You, nevertheless, believe that these are not      20    final lists. Okay. Well, let's -- let's put these      21    aside.      22    And I believe it was your testimony that      23    there was not a change in counties participating in      24    mobile EIC unit availability between October 2013 and      25    February 2014. Is that correct?</p>
<p style="text-align: center;">94</p> <p>1     the number of mobile EIC units between October 2013 and      2     February 2014?      3     <b>A. There was not.</b>      4     Q. Was it an increase or did it stay the same?      5     <b>A. It would have been the same.</b>      6     Q. Did some -- so to your knowledge no counties      7     that participated in October 2013 decided not to in 2014?      8     <b>A. I don't know what you mean by counties that</b>      9     <b>participated. Participated in what?</b>      10    Q. In the mobile EIC unit program.      11    <b>A. Which phase?</b>      12    Q. The phase -- Phase 3 is the county offices, so      13    those are not mobile EIC units, correct?      14    <b>A. They are.</b>      15    Q. You call them mobile EIC units? Are they --      16    <b>A. They're mobile.</b>      17    Q. They're mobile? Those are not -- those are --      18    those are not permanent sites that issue EICs permanently      19    or you consider those to be mobile and temporary?      20    <b>A. They're -- they're located within the county</b>      21    <b>permanently, but it's the same equipment that a mobile</b>      22    <b>unit would have. It's -- it's transportable from one</b>      23    <b>office to an office down the hall if they need to.</b>      24    <b>It's -- it's mobile.</b>      25    Q. Okay. So turning back to 6 and 7, are these</p>	<p style="text-align: center;">96</p> <p>1     <b>A. Well, I don't know what you mean by that.</b>      2     <b>That's -- that's what I don't understand, because the</b>      3     <b>number of counties who directly participated by offering</b>      4     <b>EICs themselves went up between October and February,</b>      5     <b>October of 2013 and February of 2014, so the number of</b>      6     <b>counties that -- that were in that 79 that didn't have a</b>      7     <b>DL office that DPS had to service directly went down. So</b>      8     <b>it changed, but I believe it increased.</b>      9     Q. Okay. And then with regard to mobile EIC units      10    run by DPS itself, not run by the counties, did that      11    number increase or decrease between October 2013 and      12    February 2014?      13    <b>A. I don't know. That's a DPS question. It's my</b>      14    <b>understanding that the number actually run by DPS</b>      15    <b>themselves decreased between October and February because</b>      16    <b>the number that were serviced by the counties themselves</b>      17    <b>increased, and the number of personnel involved would</b>      18    <b>have decreased because our office became involved in the</b>      19    <b>mobile Phase 2 program and supplied some of the</b>      20    <b>personnel.</b>      21    Q. And when did that -- that aspect start with --      22    with the Secretary of State staffing?      23    <b>A. January of 2014.</b>      24    Q. Why did that occur?      25    <b>A. I don't know. I mean, it occurred because we</b></p>

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25 (Pages 97 to 100)

<p style="text-align: right;">97</p> <p>1 thought it was a good idea to assist the DPS with 2 staffing these units and DPS thought it was a good idea 3 and offered the training to us.</p> <p>4 Q. Was DPS unable to or have shortcomings or 5 difficulty in staffing its mobile EIC units itself and 6 sought your assistance?</p> <p>7 A. No, it was just an agreement between us that it 8 was better for us to participate in sharing the load.</p> <p>9 Q. And why was that? Was it a resource issue?</p> <p>10 Were there other considerations?</p> <p>11 A. I -- I don't know if it's a resource issue on 12 DPS' part, but we definitely wanted to have a part in -- 13 in making these available to the public.</p> <p>14 Q. Were you concerned about any aspects of DPS' 15 administration or issuance of the EICs and you wanted to 16 have a role in it yourself as Secretary of State?</p> <p>17 A. No, ma'am, there were no concerns. We were 18 just trying to help.</p> <p>19 Q. Turning back to October 2013, are you aware of 20 any problems in the -- any difficulties, complaints, 21 shortcomings in the operation of the mobile EIC units?</p> <p>22 A. I don't know what you mean. Do you mean 23 objectively were there issues that came up logically 24 or do you mean subjectively did people complain about it?</p> <p>25 Q. Let's start off with the people complaining</p>	<p style="text-align: right;">99</p> <p>1 this prompted your memory. Have you seen this e-mail 2 before?</p> <p>3 A. Not that I can recall, no, ma'am.</p> <p>4 Q. Do you see that it indicates that several 5 counties have declined to participate in the EIC program?</p> <p>6 A. This list pertains to the Phase 3 portion of 7 the program, and yes, these counties, as of September 26, 8 had declined to participate.</p> <p>9 Q. Did they at some point thereafter change their 10 mind?</p> <p>11 A. I don't know. I'd have to see what the current 12 list of participating counties is to know that.</p> <p>13 Q. Do you know what the basis was for their 14 refusal to participate?</p> <p>15 A. Just what the e-mail says. It says lack of 16 facilities, staffing, population, or some combination of 17 the three. That is consistent with my conversations with 18 some of these counties.</p> <p>19 Q. Were you otherwise able to locate a DPS-run 20 Phase 2 mobile EIC unit in these counties, to the best of 21 your recollection, in October 2013?</p> <p>22 A. These counties would have received a Phase 3 23 unit, and the Phase 3 units were in place longer than the 24 Phase 2 units, so DPS would have blocked out a five-day 25 window of time in each of these counties to -- to be</p>
<p style="text-align: right;">98</p> <p>1 about it. Are you aware of complaints?</p> <p>2 A. I know that we had one e-mailed complaint from 3 a fellow, I believe his name was Glen Johnson, in 4 Harris County about the Holman Street location, signage 5 and that sort of thing. I don't know of any other 6 subjective complaints that we received from the public. 7 You know, some of the election officials in the counties 8 might have had some issues with, you know, how they were 9 talked to by DPS, you know, that sort of interpersonal 10 thing, but, you know, I can't remember anything specific.</p> <p>11 Q. Is there anything else, any other complaints 12 that you heard about people making about the October 2013 13 program?</p> <p>14 A. Not that I can recall our office receiving off 15 the top of my head.</p> <p>16 MS. WESTFALL: Would you mark this.</p> <p>17 (Exhibit No. 8 marked)</p> <p>18 Q. I'm handing you what's been marked as 19 Exhibit 8. Have you seen this document before?</p> <p>20 A. By the way, that's the fellow's name in the 21 Governor's Office.</p> <p>22 Q. Is it Mr. Stephenson MacGregor or MacGregor 23 Stephenson?</p> <p>24 A. MacGregor Stephenson.</p> <p>25 Q. Okay. Thank you for that correction. Glad</p>	<p style="text-align: right;">100</p> <p>1 present prior to the November 2013 election.</p> <p>2 Q. And DPS was able to do that even without the 3 consent of these counties or they -- they went in and 4 somehow got facilities for the mobile EIC unit? How did 5 that -- how did that actually happen?</p> <p>6 A. I don't know. You'd have to ask DPS how that 7 happened. But certainly DPS can go where they want to go 8 and do what they want to do. They don't have to have the 9 county's consent to do that.</p> <p>10 Q. Just to clarify your testimony as to -- as to 11 Phase 3 -- I haven't heard these terms before this 12 deposition, so I just want to make sure your testimony on 13 the record is clear. These counties did not want to 14 participate in the county-run mobile EIC program; is that 15 correct?</p> <p>16 A. That's correct. These counties were declining 17 to accept the equipment at this point, September 26, 18 2013. I believe some of these counties changed their 19 mind thereafter. But they didn't want the equipment, 20 they didn't want the training, they didn't want to have 21 to be issuing election identification certificates on an 22 ongoing basis to voters in their county.</p> <p>23 Q. And there -- was there anything that DPS or -- 24 or Secretary of State's Office could do when faced with 25 counties that refused to participate in Phase 3 from a</p>

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26 (Pages 101 to 104)

<p>1 legal standpoint?</p> <p>2 <b>A. From a legal standpoint, no. But we could</b> <b>definitely call and persuade.</b></p> <p>4 Q. Did these counties, to your knowledge, have</p> <p>5 driver license offices?</p> <p>6 <b>A. I don't believe that these counties have a</b> <b>driver license office.</b></p> <p>8 Q. Was Phase 3 and the targeting of the Phase 3</p> <p>9 directed towards -- only towards counties that did not</p> <p>10 have driver license offices?</p> <p>11 <b>A. That's correct.</b></p> <p>12 Q. Do you know which counties of this list in</p> <p>13 Exhibit 8 changed their position with regard to</p> <p>14 participation in the Phase 3?</p> <p>15 <b>A. I'd have to go -- I'd have to go check to make</b> <b>sure. I don't want to -- I don't want to guess about</b> <b>that.</b></p> <p>18 Q. Thank you. To your knowledge did any counties</p> <p>19 refuse to receive training on how to issue EICs?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. And which counties; do you recall?</p> <p>22 <b>A. I don't know. There's a list at DPS of</b> <b>counties who have accepted the training, accepted the</b> <b>equipment. There's -- there are counties who have</b> <b>accepted the training and it hasn't occurred yet, and</b></p>	<p>101</p> <p>1 <b>A. I don't know if I've seen it. Wroe would have</b> <b>talked to me about it.</b></p> <p>3 Q. And what is this?</p> <p>4 <b>A. This is an e-mail from Tony Rodriguez to our</b> <b>general counsel, Wroe Jackson, about some locations,</b> <b>looks like in Travis County.</b></p> <p>7 Q. And what is the concern expressed here?</p> <p>8 <b>A. That -- that there had been poor communication</b> <b>between Travis County and the locations regarding the</b> <b>arrival of mobile EIC units.</b></p> <p>11 Q. Were you aware of these concerns about poor</p> <p>12 communications?</p> <p>13 <b>A. Yes.</b></p> <p>14 Q. What was your response or reaction?</p> <p>15 <b>A. My response -- I don't know. We were</b> <b>coordinating, I believe, with both Mr. Elfant's office as</b> <b>well as Dana DeBeauvoir's office on these, but I probably</b> <b>would have called Michael Winn and said, you need to get</b> <b>on the stick, these people didn't know we were coming,</b> <b>what's the deal.</b></p> <p>21 Q. Who is Michael Winn?</p> <p>22 <b>A. Michael Winn is the director of elections for</b> <b>Travis County.</b></p> <p>24 Q. Did the Secretary of State's Office have any</p> <p>25 concern that, given what appeared to be lack of</p>
<p>102</p> <p>1 then there are counties who have refused the training and</p> <p>2 refused the equipment, so I don't know what that current</p> <p>3 list is. That's the Department of Public Safety.</p> <p>4 Phase 3 has been handed off.</p> <p>5 Q. From the standpoint of the Secretary of State's</p> <p>6 Office, is there anything you can do in response other</p> <p>7 than persuasion to try to change the position of those</p> <p>8 counties on acceptance of Phase 3?</p> <p>9 <b>A. At this point, no, ma'am.</b></p> <p>10 Q. Are you aware of any complaints about</p> <p>11 inadequate notice of locations of mobile EIC units?</p> <p>12 <b>A. From the public? From the election officials?</b></p> <p>13 <b>From the DPS?</b></p> <p>14 Q. From -- from any source whatsoever.</p> <p>15 <b>A. I don't know. I can't recall any specific</b> <b>complaints from the public. I know that, you know,</b> <b>sometimes the local election officials wish they would</b> <b>have received a call sooner when we were talking about</b> <b>coming next week. And so I don't know. You know, it's</b> <b>the -- it's the normal sort of thing when you're putting</b> <b>together a program on the fly.</b></p> <p>22 MS. WESTFALL: Could you mark this as 9.</p> <p>23 (Exhibit No. 9 marked)</p> <p>24 Q. I'm handing you what's been marked as</p> <p>25 Exhibit 9. Have you seen this before?</p>	<p>104</p> <p>1 communication, that there would not be adequate notice to</p> <p>2 voters about the availability of EICs through these</p> <p>3 offices?</p> <p>4 <b>A. I -- I don't know if we had any specific</b> <b>concerns in that regard. Obviously less time is less</b> <b>ability to generate awareness.</b></p> <p>7 MS. WESTFALL: Could you mark this as 10,</p> <p>8 please.</p> <p>9 (Exhibit No. 10 marked)</p> <p>10 Q. I'm handing you what's been marked as</p> <p>11 Exhibit 10. Have you seen this before?</p> <p>12 <b>A. I don't believe so, no, ma'am.</b></p> <p>13 Q. Do you see that it is an e-mail concerning</p> <p>14 Coke County's inability to attend training?</p> <p>15 <b>A. That's right.</b></p> <p>16 Q. Is this what you testified about earlier, that</p> <p>17 some counties were not available or were unwilling to</p> <p>18 attend training?</p> <p>19 <b>A. Yes. And --</b></p> <p>20 Q. And you're referring back to Exhibit --</p> <p>21 <b>A. I was looking back on Exhibit 8 to see if</b> <b>Coke County was one of the ones that had -- that had</b> <b>declined, but they -- they do not appear on that list, so</b> <b>apparently they had agreed to it, they just couldn't work</b> <b>out the logistics on this round of training.</b></p>

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<p>1 MS. WESTFALL: Could you mark this. 2 (Exhibit No. 11 marked)</p> <p>3 Q. I'm handing you what's been marked as 4 Exhibit 11. Have you seen this e-mail before?</p> <p>5 <b>A. I don't believe so, no, ma'am.</b></p> <p>6 Q. Does this e-mail indicate that Mason County 7 decided to not participate in training?</p> <p>8 <b>A. Yes, that's what it indicates, that 9 Mason County, as of October 15, had declined.</b></p> <p>10 Q. Had you heard anything about problems with 11 Mason County?</p> <p>12 <b>A. Yeah, Mason County was one that was in and out, 13 and so, yeah, I remember Mason County.</b></p> <p>14 Q. And this is with regard to the Phase 3 15 county-run offices?</p> <p>16 <b>A. That's correct.</b></p> <p>17 Q. What is the current status of Mason County?</p> <p>18 <b>A. I don't know.</b></p> <p>19 Q. Have you sought to persuade Mason County to 20 participate?</p> <p>21 <b>A. I did back then. I haven't talked to them 22 since October.</b></p> <p>23 Q. Did you have any complaints or concerns from 24 county election officials about inadequate number of 25 sites within their counties of mobile units?</p>	<p>1 <b>schedule a return visit closer to the election or to 2 offer them EIC mobile units in 2014.</b></p> <p>3 Q. Do you know whether other counties had similar 4 complaints about or concerns about lack of adequate 5 number of EIC mobile units?</p> <p>6 <b>A. I don't know. It could be that there were 7 other ones that wanted more coverage.</b></p> <p>8 MS. WESTFALL: Could you mark this as 9 Exhibit 13. (Exhibit No. 13 marked)</p> <p>10 Q. I'm handing you what's been marked as 11 Exhibit 13. Have you seen this before?</p> <p>12 <b>A. I don't know if I've seen it, no, ma'am.</b></p> <p>13 Q. Do you see that the e-mail in the middle of 14 this from Wroe Jackson to Mr. Javier Chacon was -- you 15 were copied on it?</p> <p>16 <b>A. Uh-huh.</b></p> <p>17 Q. Do you recall receiving this e-mail?</p> <p>18 <b>A. I know that we were talking to El Paso about 19 it, yes.</b></p> <p>20 Q. Do you recall the problem in El Paso?</p> <p>21 <b>A. That they wanted more time during the day, mor 22 extended hours.</b></p> <p>23 Q. Did you -- what was your response to that 24 request?</p>
<p>1 <b>A. I don't know. I'm sure that there were some 2 counties who wanted more locations than the DPS and us 3 were able to provide, and our solution to that was to 4 offer them to come back later or to do it in 2014 5 election cycle.</b></p> <p>6 MS. WESTFALL: Could you mark this, 7 please, as Exhibit 12. (Exhibit No. 12 marked)</p> <p>8 Q. I'm handing you what's been marked as 9 Exhibit 12. Do you recognize this document?</p> <p>10 <b>A. No, ma'am.</b></p> <p>11 Q. Had you heard about any -- is this an e-mail 12 from Robert Heard to Wroe Jackson?</p> <p>13 <b>A. Appears to be, yes, ma'am.</b></p> <p>14 Q. And could you take a minute to look at the 15 e-mail, the message at the top to Mr. Jackson?</p> <p>16 <b>A. (Reviewing document) Okay. Yes, ma'am.</b></p> <p>17 Q. Had you heard about this concern from 18 Mr. Heard?</p> <p>19 <b>A. I don't know if I heard about this concern 20 specifically. I know that Dallas wanted more EIC 21 service.</b></p> <p>22 Q. What was the response of DPS and Secretary of 23 State to that request?</p> <p>24 <b>A. Well, our response would have been to either 25</b></p>	<p>1 <b>106</b></p> <p>1 <b>A. That we explained to them when DPS could be 2 there and that for extended hours we'd need advance 3 approval.</b></p> <p>4 Q. So in other words, your response was that you 5 were not able to provide longer hours?</p> <p>6 <b>A. I don't know if we ended up providing longer 7 hours or not. I do know that we had to talk to DPS abou 8 that, and we did in a few locations. I know we did it in 9 Webb County. I'm not sure what happened in El Paso.</b></p> <p>10 Q. Do you know whether in October 2013 any of the 11 DPS-run mobile EIC units were open past four o'clock in 12 the afternoon?</p> <p>13 <b>A. I believe some were, yes, ma'am.</b></p> <p>14 Q. Do you know which counties were?</p> <p>15 <b>A. I know in Webb County that there were extended 16 hours to 6:30 or 7:00.</b></p> <p>17 Q. And do you see a reference to logistical and 18 staffing concerns with DPS that are referred to in this 19 e-mail?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. Do you understand what those logistical and 22 staffing concerns were?</p> <p>23 <b>A. I don't know the specifics on that, no, ma'am.</b></p> <p>24 Q. Was there -- did DPS take the position that the 25 mobile EIC units run by DPS should be open during</p>

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<p style="text-align: right;">109</p> <p>1 business hours only because that's when their staff was 2 available to staff them?</p> <p>3 <b>A. DPS believed that the mobile units should be 4 open during business hours, yes, ma'am.</b></p> <p>5 Q. And was that the practice and the case for 6 mobile units prior to November 2013 election?</p> <p>7 <b>A. That was the case for the Phase 2 units. I 8 don't know what the counties did with the Phase 3 units. 9 And I know that we had some exceptions to this general 10 rule, but we would have to get it pre-approved by DPS.</b></p> <p>11 Q. So in other words, it was DPS' decision as to 12 the hours of operation of its mobile -- of mobile EIC 13 units run by DPS; is that correct?</p> <p>14 <b>A. DPS was staffing the units and they had the 15 units in their possession, so the logistics on getting 16 the units to the location and having staff available to 17 man the units would have been a DPS decision, yes, ma'am.</b></p> <p>18 Q. Did you have conversations with DPS about 19 extending its hours of operation in the mobile EIC units?</p> <p>20 <b>A. Yes.</b></p> <p>21 Q. When were those conversations?</p> <p>22 <b>A. I don't know. In the fall of 2013. You know, 23 specifically in the context of Webb County I know we had 24 that discussion and some extended hours were approved. 25 I don't know of another instance where that occurred.</b></p>	<p style="text-align: right;">111</p> <p>1 Q. I'm handing you what's been marked as 2 Exhibit 14. Do you recognize this document?</p> <p>3 <b>A. No.</b></p> <p>4 Q. Were you -- did you become aware of any of 5 these concerns raised in these e-mails from Mr. Jackson?</p> <p>6 <b>A. I don't know. We would have talked about it 7 probably.</b></p> <p>8 Q. Turning your attention to page TEX 00461906, 9 which is the second page of Exhibit 14, do you see an 10 e-mail from Mr. Jackson to Pam Smith --</p> <p>11 <b>A. Yes.</b></p> <p>12 Q. -- at the bottom? And do you see that there is 13 discussion of the three-day deadline to get locations 14 locked in?</p> <p>15 <b>A. Yes.</b></p> <p>16 Q. And do you see Mr. Jackson expressed concerns 17 about the practicality of doing that?</p> <p>18 <b>A. Yes.</b></p> <p>19 Q. Do you recall having difficulties getting 20 locations locked in within three days?</p> <p>21 <b>A. When we were first getting the program rolling, 22 definitely, when we were cobbling it together and trying 23 to get places lined up. But as we went on, then I had 24 more lead time to work with the counties and this was far 25 less of a problem after we were rolling.</b></p>
<p style="text-align: right;">110</p> <p>1 Q. And what was your position in that -- or what 2 was the Secretary of State's position in that 3 conversation?</p> <p>4 <b>A. Our position was that if we could have at least 5 one day at each location with an hour past regular 6 closing hours, that that would be a good thing to do if 7 we could do it.</b></p> <p>8 Q. And did DPS accept that recommendation?</p> <p>9 <b>A. Not all the time, no, ma'am.</b></p> <p>10 Q. And you can only recall one county, Webb 11 County, where that occurred at least with regard to the 12 2013 operation of the mobile units?</p> <p>13 <b>A. That I can recall right now. I don't know if 14 it happened more than that. I think perhaps it did, but 15 I know it happened with Oscar in Webb County.</b></p> <p>16 Q. I'm sorry. With another county called?</p> <p>17 <b>A. With Oscar Villarreal. He's the election 18 administer in Webb County.</b></p> <p>19 Q. Thank you. Were there any other logistical or 20 staffing concerns that you were aware of that Mr. Jackson 21 was alluding to in this e-mail at Exhibit 13?</p> <p>22 <b>A. No, ma'am.</b></p> <p>23 MS. WESTFALL: Could you mark this, 24 please, as Exhibit 14.</p> <p>25 (Exhibit No. 14 marked)</p>	<p style="text-align: right;">112</p> <p>1 Q. When did -- when were the problems with meeting 2 the three-day deadline occurring just in terms of the 3 calendar?</p> <p>4 <b>A. Right. That would have been late September or 5 early October.</b></p> <p>6 Q. When did you feel that locations -- the 7 identification of the locations became easier and 8 clearer?</p> <p>9 <b>A. Well, you know, we had mapped out where we 10 intended to be, and so -- some counties are more 11 responsive and easier to work with than other counties. 12 And so as the program progressed there were counties who 13 were what we call green -- I don't know if you've seen 14 the matrices from Tony Rodriguez, but the green counties 15 stretched out further and further in advance. But even 16 in those weeks there were some counties who were still 17 black, which means that they hadn't committed one way or 18 the other to give us locations. So overall the program 19 got better by the middle of October for sure, but there 20 were always some counties where it was, you know, sort of 21 putting it together at the last minute.</b></p> <p>22 Q. I see. And so I -- I don't think I know the 23 document you're referring to, but the green counties were 24 counties that had agreed to participate in Phase 2 or 25 Phase 3?</p>

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<p>1     <b>A. Phase 2.</b></p> <p>2     Q. Phase 2, DPS?</p> <p>3     <b>A. We're talking about Phase 2 on -- on this --</b></p> <p>4     <b>this e-mail is the MOU.</b></p> <p>5     Q. Right.</p> <p>6     <b>A. This is Phase 2.</b></p> <p>7     Q. Oh, the MOU, right, right. Thank you.</p> <p>8         MS. WESTFALL: Could you mark this as 14.</p> <p>9         MR. KEISTER: 15.</p> <p>10        MS. WESTFALL: 15? Sorry.</p> <p>11        (Exhibit No. 15 marked)</p> <p>12        Q. I'm handing you what's been marked as</p> <p>13        Exhibit 15. Have you seen this document before?</p> <p>14        <b>A. Yes.</b></p> <p>15        Q. What is it?</p> <p>16        <b>A. It's a letter from Bruce Elfant to me.</b></p> <p>17        Q. Who is Bruce Elfant?</p> <p>18        <b>A. He's the tax assessor-collector for</b></p> <p>19        <b>Travis County.</b></p> <p>20        Q. When was the letter sent?</p> <p>21        <b>A. October 13, 2013.</b></p> <p>22        Q. How would you describe the purpose of the</p> <p>23        letter?</p> <p>24        <b>A. The purpose of the letter was to tell me what</b></p> <p>25        <b>they had done with regard to voter outreach and to say</b></p>	<p>1     <b>2013.</b></p> <p>2     Q. So you decided to follow his advice and do a</p> <p>3     mass mail-out? Was that done by the Secretary of State's</p> <p>4     Office or was that done by county -- county offices?</p> <p>5     <b>A. No, ma'am, that is the normal county process</b></p> <p>6     <b>that they do at the end of every odd-numbered year.</b></p> <p>7     Q. And this was the election registration</p> <p>8     certificate that went to voters?</p> <p>9     <b>A. That's right. Orange colored this year.</b></p> <p>10     Q. Probably not using the right term. But the</p> <p>11     voter registration card was sent out to every single</p> <p>12     voter in the state?</p> <p>13     <b>A. Every single voter.</b></p> <p>14     Q. And on the back of it, it listed the forms of</p> <p>15     ID?</p> <p>16     <b>A. That are required to vote, yes, ma'am.</b></p> <p>17     Q. What else did it list on the card that</p> <p>18     pertained to SB 14?</p> <p>19     <b>A. I don't believe it has anything else with</b></p> <p>20     <b>regard to SB 14. The list of required IDs is in Spanish</b></p> <p>21     <b>and English on the back of the card.</b></p> <p>22     Q. Did it provide any information about how a</p> <p>23     voter may obtain an EIC?</p> <p>24     <b>A. I don't know. I'd have to read the card.</b></p> <p>25     Q. Has the card been produced to us in litigation?</p>
<p>114</p> <p>1     <b>that they didn't think any more EIC units in</b></p> <p>2     <b>Travis County would be necessary for this election cycle.</b></p> <p>3        Q. So can you describe and list all of the</p> <p>4        concerns that Mr. Elfant raised?</p> <p>5        <b>A. You want me to read his letter?</b></p> <p>6        Q. No, just as you perceived it, since the letter</p> <p>7        was directed to you.</p> <p>8        <b>A. I mean, you'd have to ask Mr. Elfant what his</b></p> <p>9        <b>concerns were. I can read his letter.</b></p> <p>10       Q. Did he have concerns about inadequate notice of</p> <p>11       the location of the sites?</p> <p>12       <b>A. He said that there was short time, very little</b></p> <p>13       <b>time.</b></p> <p>14       Q. And so that was inadequate notice; is that</p> <p>15       right?</p> <p>16       <b>A. I don't know if that's inadequate notice or</b></p> <p>17       <b>not. You'd have to ask Mr. Elfant if that's what he</b></p> <p>18       <b>thought was meant by very little time. I think he says</b></p> <p>19       <b>that he appreciated the SOS' efforts in this regard.</b></p> <p>20       Q. Did he also raise a suggestion that there could</p> <p>21       have been mailings done to voters without state-issued</p> <p>22       IDs?</p> <p>23       <b>A. He -- he thinks that a better way to go would</b></p> <p>24       <b>be to mail new voter ID requirements to each voter, and</b></p> <p>25       <b>that's what happened in the mass mail-out at the end of</b></p>	<p>116</p> <p>1     <b>A. I have no idea.</b></p> <p>2         MS. WESTFALL: Mr. Keister, do you know?</p> <p>3         MR. KEISTER: I can't answer that</p> <p>4         question. I would suspect it has been, but --</p> <p>5         MS. WESTFALL: If it hasn't been, we would</p> <p>6         ask that it is.</p> <p>7         BY MS. WESTFALL:</p> <p>8         Q. So the cards -- the voter registration cards</p> <p>9         were sent by the counties; is that correct?</p> <p>10       <b>A. That's right.</b></p> <p>11       Q. And did the Secretary of State separately do</p> <p>12       any mailings to voters in response to Mr. Elfant's</p> <p>13       letter?</p> <p>14       <b>A. No, ma'am.</b></p> <p>15       Q. Did you take any steps at all in response to</p> <p>16       Mr. Elfant's letter?</p> <p>17       <b>A. No.</b></p> <p>18       Q. Why not?</p> <p>19       <b>A. What steps should I take?</b></p> <p>20       Q. Did you think he raised any legitimate concerns</p> <p>21       in his letter or did you not?</p> <p>22       <b>A. I just appreciated his input.</b></p> <p>23       Q. Do you see that Mr. Elfant makes the</p> <p>24       observation that it's much more difficult to reach this</p> <p>25       population than expected?</p>

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<p style="text-align: right;">117</p> <p>1     <b>A. I see that Mr. Elfant is assuming there's a</b>  2     <b>population to reach, yes.</b></p> <p>3     Q. And that he is of the view that it's a  4     difficult population to reach. Is that what he expresses  5     in the letter?</p> <p>6     <b>A. That's what he says. We can read his letter</b>  7     <b>together if you want.</b></p> <p>8     Q. Do you agree with that assessment?</p> <p>9     <b>A. I don't know what population he's talking</b>  10     <b>about.</b></p> <p>11    Q. So you do not -- just to clarify, you don't  12    agree with the assessment that they're difficult to reach  13    because you don't believe there is such population. Am I  14    summarizing your testimony correctly?</p> <p>15    <b>A. No, ma'am.</b></p> <p>16    Q. Could you clarify?</p> <p>17    <b>A. I don't know who the population is that doesn't</b>  18    <b>have an acceptable form of ID. That has been the</b>  19    <b>question that has been in our minds the whole time we've</b>  20    <b>been going through this process, so whether or not there</b>  21    <b>is a particular population that doesn't have an</b>  22    <b>acceptable form of ID and whether or not that population</b>  23    <b>is hard to reach are very unresolved questions at this</b>  24    <b>point. I appreciate Mr. Elfant's input.</b></p> <p>25    MS. WESTFALL: Could you mark this as 16,</p>	<p style="text-align: right;">119</p> <p>1     Q. And what does DL mobile refer to?</p> <p>2     <b>A. I don't know.</b></p> <p>3     Q. Do you know who would know?</p> <p>4     <b>A. I presume the Department of Public Safety.</b></p> <p>5     Q. Do you know how many EICs were issued as of  6     February 3, 2014?</p> <p>7     <b>A. I do not. I heard the number 226 somewhere</b>  8     <b>around that time, but I don't know if it was after that</b>  9     <b>or before that.</b></p> <p>10    Q. I will represent to you that based on this  11    document produced from Defendants with interrogatory  12    responses that it indicates that 65 EICs were issued  13    through a DL mobile station. Does that sound accurate to  14    you based on your knowledge of the mobile program?</p> <p>15    <b>A. I have no idea.</b></p> <p>16    Q. So, Mr. Ingram, as you may recall from our  17    discussion of the deposition notice, one of the topics in  18    the notice is -- well, let's turn to Exhibit 1. Turning  19    back to Exhibit A to Exhibit 1, which is the amended  20    notice of deposition, it indicates that topic 1 is  21    concerning policies and procedures related to  22    implementation concerning applications for and issuance  23    of EICs.</p> <p>24    <b>A. Sure.</b></p> <p>25    Q. And you are here to testify, and you said</p>
<p style="text-align: right;">118</p> <p>1    please.  2        (Exhibit No. 16 marked)</p> <p>3    Q. Mr. Ingram, I'm handing you what's been marked  4    as Exhibit 16. Have you seen this document before?</p> <p>5    <b>A. No, ma'am.</b></p> <p>6    Q. Do you see that it's a list of valid EIC  7    issuances? At least that's what it's captioned on  8    page 1.</p> <p>9    <b>A. I see that caption, yes, ma'am.</b></p> <p>10   Q. Do you know who prepared this list?</p> <p>11   <b>A. I have no idea.</b></p> <p>12   Q. If you could, take a look at Exhibit 16 and let  13   me know when you've had a chance just to scan through the  14   pages.</p> <p>15   <b>A. (Reviewing document) Okay.</b></p> <p>16   Q. I will represent to you that this list was  17   produced in connection with Defendants' interrogatory  18   responses. Do you have any reason to believe that this  19   list of valid EIC issuances as of February 3, 2014, is  20   not accurate?</p> <p>21   <b>A. I don't have any basis for saying it's accurate</b>  22   <b>or not accurate.</b></p> <p>23   Q. Do you see that the list indicates whether the  24   EIC was issued in an office or a mobile?</p> <p>25   <b>A. I do see that.</b></p>	<p style="text-align: right;">120</p> <p>1    you're qualified to testify for all the topics listed in  2    this notice; is that correct?</p> <p>3    <b>A. Right. And the notice is served on the</b>  4    <b>Secretary of State's Office.</b></p> <p>5    Q. Correct. And you're here --</p> <p>6    <b>A. So with regard to our office I am the one most</b>  7    <b>qualified to testify on that point, and with regard to</b>  8    <b>our office the DPS does not tell us how many they've</b>  9    <b>issued and from what source they've been issued.</b></p> <p>10   Q. I see.</p> <p>11    MR. KEISTER: Let her ask her question.</p> <p>12    MS. WESTFALL: So, Mr. Keister, is there  13   someone more knowledgeable about the number of EICs  14   issued from DPS, from the standpoint of the Secretary of  15   State's Office, who can -- who's qualified to testify on  16   Topic 1 on EICs?</p> <p>17    MR. KEISTER: I can't add anything to what  18   Mr. Ingram just stated. I think he pretty well stated  19   it.</p> <p>20    MS. WESTFALL: My question is whether  21   there is a more knowledgeable, prepared designee for  22   Topic 1 as it pertains to EICs from the Secretary of  23   State's Office than Mr. Ingram.</p> <p>24    MR. KEISTER: Well, the person we have  25   designated is the person that we think has the most</p>

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<p style="text-align: center;">121</p> <p>1 knowledge on these particular issues.    2 MS. WESTFALL: So there's no one --    3 MR. KEISTER: Or at least has knowledge to    4 testify on these issues. Now, obviously they can't    5 testify about DPS issues. I think that's what Mr. Ingram    6 was trying to state.    7 MS. WESTFALL: Okay. Okay. But you --    8 you did not serve any objections to this notice as to    9 the -- as to the topics and inability to testify from the    10 standpoint of Secretary of State; is that correct?    11 MR. KEISTER: Correct.    12 BY MS. WESTFALL:    13 Q. So assuming that as of February 3, 2014, 65    14 EICs were issued from mobile EIC units, would that relate    15 to the mobile EIC unit program just in September and    16 October 2013 or was it available continuously from the    17 time it was established in the summer of 2013 up until    18 February 3, 2014?    19 A. I'm not sure what you're asking.    20 Q. Do mobile EIC units -- are they continuously in    21 operation or only for certain dates and times?    22 A. Again, I'm not sure what you're asking.    23 Q. For Phase 2 DPS-run mobile units, are they only    24 available for certain dates and times or are they    25 continuously available as of when they start?</p>	<p style="text-align: center;">123</p> <p>1 A. I thought it was significantly less than that,    2 so --    3 Q. What was that based on?    4 A. Just me in my head.    5 Q. Are there no other facts or bases for that    6 prediction?    7 A. No. The DPS has not reported to the Secretary    8 of State's Office on a regular basis at all the number of    9 EICs issued, the location that those were issued from,    10 the circumstances of their issuance. That is not    11 something that DPS has reported to the Secretary of    12 State's Office, so with regard to the actual number of    13 EICs issued, we have been in the dark on that. Our    14 office has not kept tabs with it, our office has not been    15 informed of it, our office hasn't requested to know it.    16 It's just been the general impression that we've    17 received. So 65 sounds good to me personally. Whether    18 it sounds good to our office -- our office has not    19 evaluated the success or failure of the mobile program.    20 Q. Do you know how many -- and I think you just    21 answered this. But do you know how many EICs were issued    22 out of mobile EIC units in 2014?    23 A. I do not.    24 Q. Why have you not requested this information of    25 DPS?</p>
<p style="text-align: center;">122</p> <p>1 A. The mobile EIC Phase 2 program went from    2 September to the week after the election, which I believe    3 was November 12th. We could have stopped it    4 November 10th or so. I'm not sure. But anyway, that --    5 that was Phase 1 of Phase 2, and then we started the    6 second phase of Phase 2 program mobile units in    7 January of 2014, so there was a gap from the middle of    8 November and December of 2013 before the mobile units    9 involved in Phase 2 began again.    10 Q. When did they start up again in 2014?    11 A. January.    12 Q. January. At the beginning of the month?    13 A. I don't believe so. It was more like the    14 second or third week.    15 Q. So assuming that this document, Exhibit 16, is    16 accurate and 65 EICs were issued from mobile EICs,    17 whatever DL mobile means, what is your assessment of the    18 mobile EIC unit program as of February 3rd? Was it    19 successful?    20 A. I don't believe that our office has made an    21 assessment of the success or failure of this program.    22 I would say, speaking personally, that 65 sounds like    23 a higher number than I thought it was, so I'm -- I'm    24 pleased to know that number.    25 Q. And what was your expected number of issuances?</p>	<p style="text-align: center;">124</p> <p>1 A. Because the -- the responsibility for issuing    2 election identification certificates rests with DPS.    3 That is not something that the legislature has made our    4 responsibility and it's not our responsibility other    5 than, you know, human curiosity to know these things. So    6 DPS doesn't need to report to us how they're fulfilling    7 their statutory mandate. That's just -- that's just not    8 required.    9 Q. Without understanding how many EICs have been    10 issued out of the mobile EIC units is it possible for you    11 to figure out how to improve the program or do you    12 believe you need that data?    13 A. Well, certainly at some point we will need to    14 sort of reevaluate, reassess, figure out what worked,    15 what didn't work, but we're not at that point yet. We    16 are currently in a different type of Phase 2 where we are    17 trying to work with counties who are having events where    18 people will be at the events and making sure that we have    19 an invitation and the opportunity to participate in those    20 events, and so we're going at it from a different    21 direction right now.    22 Q. Is there a point in time at which you will    23 evaluate the -- you know, the success of the mobile EIC    24 program?    25 A. Certainly.</p>

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<p style="text-align: right;">125</p> <p>1 Q. When will that be?</p> <p>2 <b>A. Probably after the November 2014 election.</b></p> <p>3 Q. Do you see, turning your attention back to</p> <p>4 Exhibit 16, that there is a list of invalid applications</p> <p>5 at page TEX I.R.000415?</p> <p>6 <b>A. Yes.</b></p> <p>7 Q. And do you see that a number of those</p> <p>8 individuals did not have sufficient supporting</p> <p>9 documentation?</p> <p>10 <b>A. I do see that, yes, ma'am.</b></p> <p>11 Q. Are you aware of whether DPS or anyone within</p> <p>12 the state government of Texas has contacted these voters</p> <p>13 to assist them in applying for an EIC successfully and</p> <p>14 overcoming any of these challenges?</p> <p>15 <b>A. I do not know. Certainly our office has not</b></p> <p>16 <b>made any effort because we didn't know who they were or</b></p> <p>17 <b>where they were.</b></p> <p>18 Q. Do you plan to operate -- to work with DPS and</p> <p>19 the counties to operate or assist them in operating</p> <p>20 mobile EIC units in May 2014?</p> <p>21 <b>A. For Phase 2 or for Phase 3?</b></p> <p>22 Q. For Phase 2 and Phase 3.</p> <p>23 <b>A. Well, for Phase --</b></p> <p>24 Q. For either.</p> <p>25 <b>A. For Phase 3, we're out of the loop on that</b></p>	<p style="text-align: right;">127</p> <p>1 government offices; is that correct?</p> <p>2 <b>A. Right. We're trying to -- to see about getting</b></p> <p>3 <b>the mobile EIC possibility or availability to the voters</b></p> <p>4 <b>as much as we can and not waiting for them to come to us.</b></p> <p>5 Q. What is the status of these plans for</p> <p>6 event-based?</p> <p>7 <b>A. I am not sure of the current status. There's</b></p> <p>8 <b>a lady in my office, Louri O'Leary, who's our point</b></p> <p>9 <b>person with DPS and with the counties on that so that I'm</b></p> <p>10 <b>not making all the calls now, so I don't know what is</b></p> <p>11 <b>currently scheduled, but I do know that she is working on</b></p> <p>12 <b>that program and that she's made contacts and she's got a</b></p> <p>13 <b>schedule.</b></p> <p>14 Q. Is there a plan in place, a written plan, to</p> <p>15 put this program together?</p> <p>16 <b>A. I don't know. I don't know what you would</b></p> <p>17 <b>consider a written plan. I don't believe so, no, ma'am.</b></p> <p>18 Q. Is there -- are these targeted in counties that</p> <p>19 don't have driver license offices or --</p> <p>20 <b>A. No, ma'am. The Phase 2 program has never been</b></p> <p>21 <b>targeted to counties that didn't have driver license</b></p> <p>22 <b>offices. That's Phase 3.</b></p> <p>23 Q. Okay. So this is just a Phase 2 program as it</p> <p>24 pertains -- and by Phase 2, I mean that bucket of</p> <p>25 counties, the rural counties and the ones with high</p>
<p style="text-align: right;">126</p> <p>1 <b>unless DPS wants us to assist with anything. For Phase 2</b></p> <p>2 <b>we are currently -- we have mobile EIC units out.</b></p> <p>3 Q. They're currently operating in -- currently</p> <p>4 presently operating in advance of the May 27th election?</p> <p>5 <b>A. That's right.</b></p> <p>6 Q. And do you plan to operate those units in</p> <p>7 advance of the November 2014 election?</p> <p>8 <b>A. Yes, ma'am.</b></p> <p>9 Q. Do you have any specific plans or changes or --</p> <p>10 <b>A. As I said, we're trying to go more toward an</b></p> <p>11 <b>invitation model and more of an event-driven model so</b></p> <p>12 <b>that the counties, as they have an event that voters will</b></p> <p>13 <b>be present at, invite us to come.</b></p> <p>14 Q. I see. So what exactly does that mean, more of</p> <p>15 an event model? Is that a voter registration drive? Is</p> <p>16 that a --</p> <p>17 <b>A. No, it could be county fairs, it could be</b></p> <p>18 <b>watermelon festivals, it could be whatever they have at</b></p> <p>19 <b>which they believe it would be useful to have the</b></p> <p>20 <b>opportunity for election identification certificates to</b></p> <p>21 <b>be available to their -- to their citizens.</b></p> <p>22 Q. I see. So these are county -- county fairs,</p> <p>23 county this and that?</p> <p>24 <b>A. Events.</b></p> <p>25 Q. Events, okay. As opposed to having them in</p>	<p style="text-align: right;">128</p> <p>1 concentrations of people who may not have an appropriate</p> <p>2 ID. Is that correct?</p> <p>3 <b>A. That -- that's part of it, but now we've</b></p> <p>4 <b>introduced a new variable with regard to invitations and</b></p> <p>5 <b>events.</b></p> <p>6 Q. And invitations and events, this program you</p> <p>7 just testified about, is this in lieu of mobile EIC units</p> <p>8 in government offices or in addition?</p> <p>9 <b>A. It's another factor to consider when we're</b></p> <p>10 <b>talking about where to send the EIC units. Our goal is</b></p> <p>11 <b>to have more events and more invitations because we</b></p> <p>12 <b>believe that that's a more effective way to reach voters</b></p> <p>13 <b>who might need an ID. For instance, the city of Trinity</b></p> <p>14 <b>had a collection of senior citizens who needed election</b></p> <p>15 <b>identification certificates, and they wanted us to bring</b></p> <p>16 <b>a mobile EIC unit to Trinity, the city of Trinity.</b></p> <p>17 Trinity County, in their county seat, has accepted the</p> <p>18 training. They have a permanent mobile EIC unit at the</p> <p>19 county seat, but the city of Trinity felt like that was</p> <p>20 too far for their folks to drive, so they wanted us to</p> <p>21 come, so we made available a mobile EIC unit for them --</p> <p>22 I don't know if it was one or two days -- and we</p> <p>23 fulfilled that request, and I believe EICs were issued at</p> <p>24 that event. So that's the kind of model that we're</p> <p>25 talking about. If -- if the counties or cities within</p>

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<p>1       <b>A. No.</b></p> <p>2       Q. Can you take a look at just the first page, the</p> <p>3       e-mail on the first page, and let me know when you've had</p> <p>4       a chance to look at it?</p> <p>5       <b>A. Sure. (Reviewing document) Okay.</b></p> <p>6       Q. Do you see that Mr. Rodriguez is the author of</p> <p>7       the e-mail?</p> <p>8       <b>A. I see that.</b></p> <p>9       Q. Do you see that Mr. Rodriguez asks that state</p> <p>10      troopers -- or troopers be present at the driver license</p> <p>11      offices for the Saturday hours?</p> <p>12      <b>A. I do.</b></p> <p>13      Q. Do you know why he made that suggestion?</p> <p>14      <b>A. I'm not sure I understand the question.</b></p> <p>15      Q. Do you know why he asked the -- the recipients</p> <p>16      of the e-mail to provide troopers during Saturday hours</p> <p>17      at the DPS offices?</p> <p>18      <b>A. Specifically DPS troopers and not just clerks?</b></p> <p>19      Q. Well, he says troopers, does he not, in the</p> <p>20      second paragraph?</p> <p>21      <b>A. Yeah. I don't know DPS' policy on who has to</b></p> <p>22      <b>be present when an office is open. That's -- that's a</b></p> <p>23      <b>DPS question, so I don't know. If you're specifically</b></p> <p>24      <b>asking if there's a reason to have troopers in the office</b></p> <p>25      <b>on a Saturday, I -- that is -- I don't know.</b></p>	<p>1       <b>open.</b></p> <p>2       Q. And was that at your request, that the Saturday</p> <p>3       hours would be initiated?</p> <p>4       <b>A. No. I mean, it -- we were definitely of the</b></p> <p>5       <b>opinion that off hours should be offered. I don't know</b></p> <p>6       <b>if that played a role in this or not.</b></p> <p>7       Q. Do you know how many EICs were issued during</p> <p>8       Saturday hours in October 2013?</p> <p>9       <b>A. I do not.</b></p> <p>10      Q. Did you track that at all?</p> <p>11      <b>A. No, ma'am.</b></p> <p>12      Q. Do you know, for example, on one Saturday at</p> <p>13      nine offices only two were issued? Are you aware of that</p> <p>14      fact?</p> <p>15      <b>A. No. We could have been told that somewhere</b></p> <p>16      <b>along the way, but as I sit here today I don't remember</b></p> <p>17      <b>it.</b></p> <p>18      Q. Have you made any assessment of the success of</p> <p>19      Saturday hours to offer EICs at driver license offices?</p> <p>20      <b>A. No, ma'am, our office has not made any</b></p> <p>21      <b>assessment of Saturday hours.</b></p> <p>22      Q. Do you know whether Saturday hours will be</p> <p>23      offered in February 2014 at driver license offices?</p> <p>24      <b>A. I don't know.</b></p> <p>25      Q. And have you worked with -- I believe you</p>
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<p>1       Q. And do you see that -- in the first paragraph</p> <p>2       that his thought is that if there's no demand for EICs</p> <p>3       they can make the case for stopping having Saturday</p> <p>4       hours?</p> <p>5       <b>A. That's what he says.</b></p> <p>6       Q. Why do you think he said that?</p> <p>7        MR. KEISTER: Objection, calls for</p> <p>8       speculation.</p> <p>9       <b>A. I don't know why he said it. I don't know why</b></p> <p>10      <b>he said it. I know that DPS was having to pay overtime</b></p> <p>11      <b>for these employees.</b></p> <p>12      Q. So you think DPS was not enthusiastic about the</p> <p>13      payroll involved in the Saturday hours for the EIC</p> <p>14      program? Is that your sense?</p> <p>15      <b>A. I have no idea if they --</b></p> <p>16      MR. KEISTER: Objection, calls for --</p> <p>17      calls for speculation.</p> <p>18      <b>A. I have no idea if they were enthusiastic or</b></p> <p>19      <b>not.</b></p> <p>20      Q. Do you see in the first sentence that it</p> <p>21      indicates that the Secretary of State's Office is</p> <p>22      targeting 13 counties?</p> <p>23      <b>A. It looks like he took our list from the</b></p> <p>24      <b>July '13 matching exercise, picked the top 13 counties</b></p> <p>25      <b>and decided those would be the offices that would be</b></p>	<p>1       testified you worked with DPS to offer EICs through</p> <p>2       mobile EIC units in February 2014, correct?</p> <p>3       <b>A. Our office did. It would have been Louri at</b></p> <p>4       <b>that point.</b></p> <p>5       Q. Have you made any changes in your program in</p> <p>6       2014 from 2013 for the mobile EIC units?</p> <p>7       <b>A. As I said, we're trying to have more of the</b></p> <p>8       <b>units placed with events and invitations.</b></p> <p>9       Q. That is for the future. I guess just limiting</p> <p>10      the EIC mobile unit as it pertains to February, in</p> <p>11      advance of the March 2014 election, have you made any</p> <p>12      changes from October 2013?</p> <p>13      <b>A. Yes. The event-driven invitation model is the</b></p> <p>14      <b>2014, not just for the November election, but also for</b></p> <p>15      <b>the primary.</b></p> <p>16      Q. I see. Any other changes?</p> <p>17      <b>A. No, ma'am.</b></p> <p>18      Q. And I believe you testified earlier that the</p> <p>19      Secretary of State is staffing some of the mobile units?</p> <p>20      <b>A. That is correct.</b></p> <p>21      Q. And that is for this month, February 2014?</p> <p>22      <b>A. This month is April.</b></p> <p>23      Q. I'm in the wrong -- I'm sorry. I'm saying</p> <p>24      February. I -- I'm thinking about the May election. My</p> <p>25      apologies. I'm messing up the record.</p>

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<p>1           MS. WESTFALL: Strike that.</p> <p>2           Q. Okay. So you -- okay. The Secretary of</p> <p>3        State's Office staffed in February in advance of the</p> <p>4        March 2014 election --</p> <p>5           <b>A. We did.</b></p> <p>6           Q. -- some mobile offices. Which offices?</p> <p>7           <b>A. I don't know how many. There were quite a few.</b></p> <p>8        <b>My -- my office has the numbers if you need them. We've</b></p> <p>9        <b>got the schedule and we've got the numbers of who went</b></p> <p>10       <b>where. But it was -- it was quite a few of them.</b></p> <p>11          Q. Why did that occur?</p> <p>12          <b>A. I think I've answered this question. Our</b></p> <p>13        <b>office and DPS thought it would be a useful thing to have</b></p> <p>14        <b>Secretary of State employees involved in the process of</b></p> <p>15        <b>issuing election identification certificates. They</b></p> <p>16        <b>offered us the training. We took the training and now we</b></p> <p>17        <b>have staff with DPS. The -- the -- the rollout in</b></p> <p>18        <b>February and before the March primary was one DPS person,</b></p> <p>19        <b>one Secretary of State person for each of the mobile</b></p> <p>20       <b>units.</b></p> <p>21          Q. Why did you decide to agree to have your staff</p> <p>22        play that role?</p> <p>23          <b>A. Because we can.</b></p> <p>24          Q. As of February, the beginning of February, were</p> <p>25        there about 33 counties in Texas without a driver license</p>	<p>1           Q. So you think this e-mail is inaccurate?</p> <p>2           <b>A. No.</b></p> <p>3           Q. Or doesn't reflect that?</p> <p>4           <b>A. I don't think it reflects that.</b></p> <p>5           Q. Why does it not reflect that?</p> <p>6           <b>A. I think it reflects that the -- the sites were</b></p> <p>7        <b>given with the five days notice, we've -- we've stretched</b></p> <p>8        <b>out the required minimum notice to five days, and that if</b></p> <p>9        <b>there's some sort of problem, then the EIC units would be</b></p> <p>10       <b>rescheduled.</b></p> <p>11          Q. And you see that she -- this e-mail was sent on</p> <p>12        February 14th?</p> <p>13          <b>A. I do.</b></p> <p>14          Q. And she was trying to confirm locations within</p> <p>15        two days, is that right, by the 16th?</p> <p>16          <b>A. Right. But that wasn't when they were going to</b></p> <p>17        <b>start.</b></p> <p>18          Q. And when --</p> <p>19          <b>A. That's just when she wanted to know for sure</b></p> <p>20        <b>whether it was a go or no go.</b></p> <p>21          Q. When were they going to start?</p> <p>22          <b>A. I don't know. I would have to see the</b></p> <p>23        <b>schedule. It was sometime after Sunday the 16th.</b></p> <p>24          Q. But it's your testimony today there were no</p> <p>25        concerns about no adequate notice in February 2014 for</p>
138	140
<p>1        office or permanent EIC program? Does that sound right?</p> <p>2          <b>A. That sounds like it could be correct. I don't</b></p> <p>3        <b>know the precise number.</b></p> <p>4        MS. WESTFALL: Bear with me for one</p> <p>5        moment. Let's go off the record for one second while</p> <p>6        I get my exhibits together.</p> <p>7           (Off the record 11:57 a.m. to 11:59 a.m.)</p> <p>8           (Exhibit No. 19 marked)</p> <p>9        BY MS. WESTFALL:</p> <p>10          Q. I'm handing you what's been marked as</p> <p>11        Exhibit 19. Have you seen this before?</p> <p>12          <b>A. I don't believe I have, no, ma'am.</b></p> <p>13          Q. Do you see it's from Louri O'Leary, whose name</p> <p>14        I think you just mentioned, concerning some sites in</p> <p>15        February 2014 for a mobile EIC?</p> <p>16          <b>A. Yes.</b></p> <p>17          Q. And do you see that Ms. O'Leary is talking</p> <p>18        about tight deadlines again and confirming locations</p> <p>19        again? Do you see that?</p> <p>20          <b>A. I do.</b></p> <p>21          Q. Were there continued concerns about securing</p> <p>22        sites with adequate notice in February 2014?</p> <p>23          <b>A. No, ma'am.</b></p> <p>24          Q. There were no concerns?</p> <p>25          <b>A. No.</b></p>	<p>1        these locations?</p> <p>2          <b>A. No, ma'am, there was no concern.</b></p> <p>3          Q. In February 2014 did you -- did your office</p> <p>4        have any involvement in the Saturday hours of where EICs</p> <p>5        would be offered?</p> <p>6          <b>A. No, ma'am. Louri participates in a daily</b></p> <p>7        <b>conference call with DPS, so she probably knew about it,</b></p> <p>8        <b>but it wasn't anything that we were driving.</b></p> <p>9          Q. Based on -- we talked about this a little bit</p> <p>10       earlier. But based on the number of applications that</p> <p>11       you've received for EICs do you believe this program has</p> <p>12       been successful?</p> <p>13          <b>A. We haven't received any applications for EICs.</b></p> <p>14          Q. Based on the number of applications that have</p> <p>15       been submitted do you believe this program has been</p> <p>16       successful?</p> <p>17          <b>A. I don't know for sure how many applications</b></p> <p>18        <b>have been submitted. I know what you showed me before,</b></p> <p>19        <b>and I've said that we're going to make an assessment</b></p> <p>20        <b>probably at the end of the year after the November</b></p> <p>21        <b>election about whether or not this program has been</b></p> <p>22       <b>successful.</b></p> <p>23          Q. So your testimony today is you do not know</p> <p>24        whether the EIC program has been successful or not; is</p> <p>25        that correct?</p>

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<p>1     <b>A. I don't know what you mean by EIC program. If</b>    2     <b>you mean Phase 2 mobile unit program, it -- I don't know</b>    3     <b>is the answer, yes.</b></p> <p>4     Q. I guess overall do you think the EIC program,    5     making it available to persons who otherwise do not have    6     acceptable photo ID under SB 14, do you think it's been    7     successful?</p> <p>8     <b>A. I don't know.</b></p> <p>9     Q. And I will represent to you that the    10    defendants' interrogatory responses indicate in the    11    responses themselves that as of February 3, 2014, 167    12    applications for EICs had been received. Does that sound    13    accurate from your standpoint?</p> <p>14    <b>A. I know that the number is more than that now.</b></p> <p>15    Q. Does it sound accurate as of February 3, 2014?</p> <p>16    <b>A. I would have thought it would be closer to 200</b>    17    <b>as of February.</b></p> <p>18    Q. And based on that number do you have any    19    assessment as to whether making EICs available to the    20    public has been successful or not?</p> <p>21        MR. KEISTER: Objection, asked and    22        answered, and since he's already stated that they haven't    23        made an assessment, it would be speculation, unless    24        you're asking him personally.</p> <p>25        Q. You may answer.</p>	<p>1     <b>number of EIC applications to comply with any statutory</b>    2     <b>mandate. I do know that we want to make them as widely</b>    3     <b>available as we can make them.</b></p> <p>4     Q. Have you taken any steps to ensure that    5     unregistered eligible voters who lack SB 14 ID obtain an    6     EIC?</p> <p>7     <b>A. No, ma'am.</b></p> <p>8     Q. Have you given any consideration to that issue    9     at all?</p> <p>10    <b>A. No, ma'am. There -- there -- we just had an</b>    11    <b>interim elections committee hearing, and one of the</b>    12    <b>things that was under discussion was interstate</b>    13    <b>crosscheck programs between voter lists and doing list</b>    14    <b>maintenance. One of the things that we talked about at</b>    15    <b>the interim committee was the ERIC program. The ERIC</b>    16    <b>program has as a component offering the opportunity to</b>    17    <b>currently nonregistered but eligible citizens the</b>    18    <b>opportunity to register to vote. I don't know what the</b>    19    <b>legislature will decide with regard to participating in</b>    20    <b>that program or not. That's just one of the things that</b>    21    <b>we talked about at the interim elections committee</b>    22    <b>hearing. And that is the only program that I know of</b>    23    <b>that reaches out to currently unregistered voters.</b></p> <p>24        Q. Could you describe that program?</p> <p>25        <b>A. ERIC? I don't know if I know enough about it</b></p>
142	144
<p>1     <b>A. As I said, we haven't made an assessment of the</b>    2     <b>success or failure of this program yet. That'll probably</b>    3     <b>occur after the November 2014 election.</b></p> <p>4     Q. Are you -- is your office trying to increase    5     the number of EIC applications?</p> <p>6     <b>A. It is not our role to increase the number of</b>    7     <b>EIC applications. It is our role to do whatever we can</b>    8     <b>do to make EICs available to voters who need an</b>    9     <b>acceptable form of ID to vote. So I don't know if there</b>    10    <b>is a way to measure the success or failure of that other</b>    11    <b>than we provided the opportunity, and it is our goal to</b>    12    <b>provide the opportunity as widely as we can.</b></p> <p>13        Q. And I believe you testified before that there's    14        no legal obligation on the part of the Secretary of State    15        to increase the number of applications of EICs. Is that    16        right?</p> <p>17        <b>A. The EIC application process is not ours, it's</b>    18        <b>the DPS'.</b></p> <p>19        Q. And is it -- I know your testimony is that the    20        Secretary of State's Office does not have an obligation    21        to increase the number of EIC applications. Is it the    22        responsibility of any other entity, state or local, in    23        the state of Texas to increase the number of EIC    24        applications?</p> <p>25        <b>A. I don't know of any requirement for any minimum</b></p>	<p>1     <b>to describe it.</b></p> <p>2        Q. That's okay then. I don't want you to testify    3        about things you don't know about, so that's okay.</p> <p>4        <b>Could county election officials issue an</b>    5        <b>EIC when a voter registers to vote? Would it be possible</b>    6        <b>for the county election officials to do that?</b></p> <p>7        <b>A. The counties who have accepted the training and</b>    8        <b>have the equipment, yes.</b></p> <p>9        Q. It could all be within one -- a one-step    10      process?</p> <p>11        <b>A. It wouldn't be a one-step process, it would be</b>    12        <b>a two-step process. But yes. One of the requirements to</b>    13        <b>receive an election identification certificate is either</b>    14        <b>that you are already registered to vote or you submit an</b>    15        <b>application to register to vote contemporaneously with</b>    16        <b>your application for the EIC. So in some of the counties</b>    17        <b>in Phase 3 I believe the voter registrar is where the EIC</b>    18        <b>equipment is, and so if -- if a voter registers to vote</b>    19        <b>and needs an ID, there is the opportunity to get both at</b>    20        <b>the same visit to the voter registrar's office.</b></p> <p>21        Q. To your knowledge are any counties presently    22        doing that?</p> <p>23        <b>A. Yes.</b></p> <p>24        Q. Which counties?</p> <p>25        <b>A. I don't know. There's 40 or so.</b></p>
141	143
<p>1     <b>A. I don't know what you mean by EIC program. If</b>    2     <b>you mean Phase 2 mobile unit program, it -- I don't know</b>    3     <b>is the answer, yes.</b></p> <p>4     Q. I guess overall do you think the EIC program,    5     making it available to persons who otherwise do not have    6     acceptable photo ID under SB 14, do you think it's been    7     successful?</p> <p>8     <b>A. I don't know.</b></p> <p>9     Q. And I will represent to you that the    10    defendants' interrogatory responses indicate in the    11    responses themselves that as of February 3, 2014, 167    12    applications for EICs had been received. Does that sound    13    accurate from your standpoint?</p> <p>14    <b>A. I know that the number is more than that now.</b></p> <p>15    Q. Does it sound accurate as of February 3, 2014?</p> <p>16    <b>A. I would have thought it would be closer to 200</b>    17    <b>as of February.</b></p> <p>18    Q. And based on that number do you have any    19    assessment as to whether making EICs available to the    20    public has been successful or not?</p> <p>21        MR. KEISTER: Objection, asked and    22        answered, and since he's already stated that they haven't    23        made an assessment, it would be speculation, unless    24        you're asking him personally.</p> <p>25        Q. You may answer.</p>	<p>1     <b>number of EIC applications to comply with any statutory</b>    2     <b>mandate. I do know that we want to make them as widely</b>    3     <b>available as we can make them.</b></p> <p>4     Q. Have you taken any steps to ensure that    5     unregistered eligible voters who lack SB 14 ID obtain an    6     EIC?</p> <p>7     <b>A. No, ma'am.</b></p> <p>8     Q. Have you given any consideration to that issue    9     at all?</p> <p>10    <b>A. No, ma'am. There -- there -- we just had an</b>    11    <b>interim elections committee hearing, and one of the</b>    12    <b>things that was under discussion was interstate</b>    13    <b>crosscheck programs between voter lists and doing list</b>    14    <b>maintenance. One of the things that we talked about at</b>    15    <b>the interim committee was the ERIC program. The ERIC</b>    16    <b>program has as a component offering the opportunity to</b>    17    <b>currently nonregistered but eligible citizens the</b>    18    <b>opportunity to register to vote. I don't know what the</b>    19    <b>legislature will decide with regard to participating in</b>    20    <b>that program or not. That's just one of the things that</b>    21    <b>we talked about at the interim elections committee</b>    22    <b>hearing. And that is the only program that I know of</b>    23    <b>that reaches out to currently unregistered voters.</b></p> <p>24        Q. Could you describe that program?</p> <p>25        <b>A. ERIC? I don't know if I know enough about it</b></p>
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<p style="text-align: right;">145</p> <p>1 Q. They're all -- so all of those 40 counties in 2 which there isn't a driver license and which they're 3 participating in Phase 3, those counties are issuing the 4 EICs from the county election office; is that correct?</p> <p>5 A. Well --</p> <p>6 Q. Or elsewhere?</p> <p>7 A. Yeah, the county election office is -- is a -- 8 is a moving target, so I don't know what you mean when 9 you say that. We have -- the county clerks in a lot of 10 counties run the elections. The voter registrar is 11 usually the tax assessor-collector. There are some 12 counties where those roles are reversed and there's some 13 counties where one or both -- one of those will have both 14 roles. There are other counties, about 100 of them, 15 where there's an election administrator who does both the 16 election piece and the voter registrar piece.</p> <p>17 So I don't know which counties you're 18 talking about, but with regard to the counties that don't 19 have a driver license office that do have the EIC 20 available, I am aware of Grimes County. Becky Duff is 21 the elections administrator over there, and she issues 22 EICs. As far as I know she's the only county with a 23 permanent location who's actually issued an EIC, but 24 she's very pleased that she's done three of them.</p> <p>25 Q. Thank you. Now I want to turn to a different</p>	<p style="text-align: right;">147</p> <p>1 law became enforceable. And so I think that we had 2 previously issued the disability exemption advisory. You 3 know, I think the advisory also had stuff with regard to 4 religious exemption and disaster declaration exemption as 5 well, but the primary purpose of that advisory was the 6 disability exemption.</p> <p>7 Q. Is the September 13, 2013, FAQs the most 8 up-to-date piece of information about how the disability 9 exemption works or you're saying the advisory is more 10 accurate or up to date or are they both?</p> <p>11 A. You're misunderstanding my point. The 12 advisories set forth the policy, the procedure, this is 13 how you do it. The FAQ answers questions with regard to 14 that policy and that procedure. So my point is that they 15 work together to -- to talk about disability exemption 16 procedure.</p> <p>17 Q. Got it. If a voter wants to obtain a 18 disability exemption must the voter appear at the county 19 registrar or the election official in person or can this 20 be obtained in other means?</p> <p>21 A. They can mail it in.</p> <p>22 Q. They can mail in their original documentation 23 certifying the disability to the election official; is 24 that correct?</p> <p>25 A. No, they can mail in a copy.</p>
<p style="text-align: right;">146</p> <p>1 topic, the disability exemption.</p> <p>2 MS. WESTFALL: Could you mark this as 3 Exhibit 20.</p> <p>4 (Exhibit No. 20 marked)</p> <p>5 Q. I'm handing you what's been marked as 6 Exhibit 20.</p> <p>7 A. Yes.</p> <p>8 Q. Do you recognize this document?</p> <p>9 A. Yes, I do.</p> <p>10 Q. And what is it?</p> <p>11 A. This is some FAQs that we prepared for county 12 election officials with regard to implementing photo ID 13 SB 14s for the November 2013 election.</p> <p>14 Q. And does it set forth various procedures 15 related to the disability exemption?</p> <p>16 A. Well, this -- this is sort of a response 17 document to input that we receive from the counties, 18 so -- the nature of a frequently asked questions document 19 is to answer frequently asked questions, and so if 20 there's some disability questions in here, then that is a 21 response to ones we had received. The -- the disability 22 exemption advisory came out earlier in the year, shortly 23 after the Shelby County decision on June 25th of 2013. 24 We might have issued that advisory as early as June 26th. 25 I think that it was pretty much ready to go if -- if the</p>	<p style="text-align: right;">148</p> <p>1 Q. Mail in a copy. That's right. But they can do 2 it by mail?</p> <p>3 A. They don't need to mail in their original 4 disability documents.</p> <p>5 Q. Okay.</p> <p>6 A. They need to mail in a copy or present a copy 7 in person.</p> <p>8 Q. What sort of documents from the Social Security 9 Administration or the Veterans Administration will 10 suffice?</p> <p>11 A. You know, I don't know what documents they 12 issue. It's our belief in the Secretary of State's 13 Office that there is a letter at the end of a process 14 where someone gets evaluated that will show a disability 15 rating of X percent. With regard to the Social Security 16 Administration, if there's any disability at all they're 17 qualified for the disability exemption. With regard to 18 the Veterans Administration the disability rating has to 19 be more than 50 percent. So I don't know what form that 20 notice takes to the voter, but whatever they get, they 21 present a copy of it to the election officials.</p> <p>22 Q. Thank you.</p> <p>23 MS. WESTFALL: Can you mark this as 21. 24 (Exhibit No. 21 marked)</p> <p>25 Q. I'm handing you what's been marked as 21. Do</p>

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<p style="text-align: right;">149</p> <p>1 you recognize this document?</p> <p>2     <b>A. I do.</b></p> <p>3     Q. What is it?</p> <p>4     <b>A. This is the application form -- the request</b>  <b>5 form that we came up with for requesting a disability</b>  <b>6 exemption.</b></p> <p>7     Q. Do you see that a voter must indicate that the  8 voter does not have another acceptable form of SB 14  9 qualifying ID in order to get this exemption?</p> <p>10    <b>A. I believe that's the statutory requirement.</b></p> <p>11    Q. Is it? Is that the source of the obligation?</p> <p>12    <b>A. I believe so. Now I don't remember where it</b>  13 <b>is.</b></p> <p>14        MR. KEISTER: I don't think she asked you  15 to find it. If she wants you to, that's fine.</p> <p>16        MS. WESTFALL: For the record, Mr. Ingram  17 is preparing -- is looking at the Election Code.</p> <p>18        <b>A. Yes.</b></p> <p>19        Q. What is the source of the obligation that  20 voters say they don't have any other forms of ID?</p> <p>21        <b>A. It is Election Code 13.002, subpart (i),</b>  22 <b>subpart 2.</b></p> <p>23        Q. And this is SB -- this is SB 14 as codified?</p> <p>24        <b>A. I believe so.</b></p> <p>25        Q. If a voter obtains a disability exemption,</p>	<p style="text-align: right;">151</p> <p>1     <b>a photo ID, but they still have to show an acceptable</b>  2 <b>form of ID under SB 14.</b></p> <p>3     Q. So your understanding is that the purpose is to  4 show identification and it must have an E, the voter  5 registration certificate? That's your understanding?</p> <p>6     <b>A. That's right.</b></p> <p>7     Q. Is there any time period by which a county  8 official must process an application for a disability  9 exemption?</p> <p>10    <b>A. I don't remember what our advisory says. You</b>  11 <b>know, obviously they need to do it.</b></p> <p>12    Q. Is there any legal requirement under the code  13 or regulation other than the advisory you just discussed?</p> <p>14    <b>A. I don't think that we've actually put it in the</b>  15 <b>rule, so I don't know if there's a time requirement for a</b>  16 <b>county to act on the disability exemption.</b></p> <p>17    Q. Is it true, therefore, that the voter is not  18 guaranteed that her application for a disability  19 exemption will be processed in time for an election?  20 There's no -- there's no guarantee?</p> <p>21    <b>A. I don't know what that means, there's no</b>  22 <b>guarantee.</b></p> <p>23    Q. There's no certainty if a voter applies at a  24 certain date that the exemption will be granted before an  25 election -- upcoming election by law?</p>
<p style="text-align: right;">150</p> <p>1 appears to vote and is not -- and is listed on the list  2 of voters as exempted, has an E in the list of registered  3 voters, but does not have the card showing an E, the  4 voter registration certificate, that voter must vote by  5 provisional ballot, right?</p> <p>6     <b>A. That's right.</b></p> <p>7     Q. And what is the purpose of that requirement as  8 you understand it?</p> <p>9     <b>A. Because they have to identify themselves as the</b>  10 <b>voter and they at least need their certificate with the E</b>  11 <b>on it.</b></p> <p>12     Q. But if they had an old certificate that didn't  13 have an E on it, why wouldn't that suffice to prove the  14 identity of the voter provided the voter has an E in the  15 poll book?</p> <p>16     <b>A. An old certificate is not an acceptable form of</b>  17 <b>identification under 13.002(i) or 63.0101.</b></p> <p>18     Q. Isn't the purpose of the disability exemption  19 to exempt certain people with disabilities from the SB 14  20 identification requirements?</p> <p>21     <b>A. No, ma'am.</b></p> <p>22     Q. What is the purpose of the disability  23 exemption?</p> <p>24     <b>A. The purpose of the disability exemption is to</b>  25 <b>exempt certain people from the requirement that they show</b></p>	<p style="text-align: right;">152</p> <p>1     <b>A. Again, what's the certain date? I mean, I</b>  2 <b>don't understand the question. There are -- there are</b>  3 <b>county election officials all over this state who are</b>  4 <b>very diligent and care a lot about what they do. There</b>  5 <b>are also a lot of people who register to vote at the last</b>  6 <b>minute, so there is a requirement that voters be</b>  7 <b>registered 30 days before an election. There is a</b>  8 <b>requirement that if you're going to have an election</b>  9 <b>identification -- or a disability exemption that you have</b>  10 <b>a card with an E on it. However, sometimes counties get</b>  11 <b>overwhelmed with last minute surges in applications, and</b>  12 <b>potentially a disability exemption could be caught up in</b>  13 <b>that surge, and so they might not have the actual</b>  14 <b>physical card with an E on it yet, but the E will be on</b>  15 <b>the official list of registered voters by the time of the</b>  16 <b>election, and if a voter applies for the disability</b>  17 <b>exemption in that 30-day window, then there's not a</b>  18 <b>guarantee that it'll be on there, but if it's done</b>  19 <b>before -- 30 days before the election, then they'll have</b>  20 <b>the E on the official list of registered voters and they</b>  21 <b>can bring their current election -- their current voter</b>  22 <b>registration card without the E and show it, because</b>  23 <b>it'll have the right color, not a previous one, and they</b>  24 <b>can -- they can get the disability exemption without a --</b>  25 <b>without a provisional ballot. However, if they ask for</b></p>

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<p style="text-align: right;">153</p> <p>1 the disability exemption within the 30-day window, then 2 no, there's not a guarantee. 3 Q. So they may still have their registration card 4 that doesn't indicate an E and they'll vote by 5 provisional ballot? 6 A. No, ma'am. If they have their current orange 7 colored voter registration certificate and they show up 8 to vote and they bring that with them and they say, 9 I'm -- I'm disabled, they'll look on the official list of 10 registered voters. If there's an E on the official list 11 of registered voters for that voter, then they can vote a 12 regular ballot. 13 Q. And that is pursuant to what? 14 A. That's pursuant to our advisory and this FAQ. 15 Q. Under what circumstance would a voter who has 16 applied for a disability exemption and hasn't received it 17 have to vote provisionally? 18 A. If they did it less than 30 days before the 19 election. 20 Q. If a voter obtains a disability exemption and 21 moves to another county, that voter needs to reapply for 22 the exemption; is that correct? 23 A. That's right. They also need to reregister to 24 vote in the new county. Voter registration is a 25 county-based system, and so the counties don't have any</p>	<p style="text-align: right;">155</p> <p>1 Q. But it's not enough to have the voter indicated 2 in TEAM as exempt, in other words -- 3 A. No, No, that -- 4 Q. -- because the counties must have separate 5 documentation. Is that your testimony? 6 A. The counties have to maintain documents with 7 regard to their voters, and an E in TEAM that, let's just 8 say, Grimes County has because they've seen the 9 disability exemption paperwork and they've got it 10 maintained for that voter means nothing to Navasota -- I 11 mean to Marion County. That -- Marion County just sees 12 an E. They don't know that that voter -- they don't know 13 what was shown, they don't have it, they don't -- they've 14 got a statutory obligation to have the paperwork. The 15 county has an -- 16 Q. Does SB 14 require that? 17 A. No. Preexisting law requires that information 18 specific to a voter be in the county where the voter is 19 registered. 20 Q. Do you know how many voters have applied for 21 this exemption? 22 A. I don't know the current numbers. I know that 23 as of January there were 19 in the TEAM system. 24 Q. Would you agree that the disability exemption 25 is a narrow exemption to the requirements of SB 14 for</p>
<p style="text-align: right;">154</p> <p>1 obligation to share information. 2 Q. What is the purpose of that reregistration of 3 the disability exemption requirement if one moves? 4 A. I don't know how to explain it any better than 5 I just did. 6 Q. Isn't the voter identified as E within the TEAM 7 statewide database? 8 A. Probably. Yeah, I think we've got -- 9 Q. So why is there a reason for the voter to have 10 to reapply for that exemption when she moves? 11 A. Because they have to reregister to vote and 12 they have to apply for an exemption in the new county 13 with their new voter registration so that that county 14 knows that that voter has got a disabled exemption, and 15 they've got an obligation -- the county has an obligation 16 under 13, I believe, 054 of the Election Code, maybe 17 13.104, to maintain information regarding active voters 18 as long as that voter is active and for up to two years 19 for a canceled voter. 20 So the county has an obligation to have 21 the information related to its voters, and if the voter 22 registered to vote, got a disability exemption at another 23 county, then the county -- the new county wouldn't have 24 that data, they would be not complying with their 25 statutory obligations.</p>	<p style="text-align: right;">156</p> <p>1 ID? 2 A. I don't know how to characterize it. 3 Q. Would you characterize 19 as a large number of 4 voters? 5 MR. KEISTER: Objection, vague. 6 A. I don't know in reference to what 19 exists. 7 Q. Do you have any -- any view on the part of the 8 Secretary of State of whether this is -- provides much 9 relief from the ID requirements under SB 14? 10 A. I don't believe that the ID requirement needs 11 relief. The Secretary of State's Office is in the 12 business of implementing the laws as they are put to us 13 by the legislature, and in doing so we don't express 14 opinions about whether or not the law is ill-founded, 15 well-founded. We don't express opinions about whether 16 exemptions are narrow or wide. That is not our role. 17 Our role is to implement the law. 18 Q. Have you assessed whether persons who are 19 eligible for the exemption have had any problems or 20 success in applying for this exemption? 21 A. I have not. 22 Q. Do you know of any office that has? 23 A. I am not aware of any office that has made such 24 an assessment. I do know that our advice to the counties 25 is to be -- is to not take a stringent view of the</p>

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<p>1 documentation provided, so if there's any indication on  2 the documents anywhere that there's some kind of  3 disability from Social Security Administration, we advise  4 the county to accept it. We don't -- we don't want them  5 in the business of second-guessing Social Security  6 Administration documents.</p> <p>7 Q. Was there a time when you determined that  8 certain forms of photo ID not expressly listed in SB 14  9 were sufficient as ID?</p> <p>10 A. No.</p> <p>11 Q. Did you determine that the -- that a citizenship certificate also included a Certificate of Naturalization?</p> <p>12 A. We did determine that when the legislature listed citizenship certificate as a form of ID they -- they also meant to include naturalization certificate, yeah, that when they said citizenship certificate they meant a certificate that you get when you become a citizen.</p> <p>13 Q. How did you make that determination? What was that based on?</p> <p>14 A. Well, we investigated -- you know, talked to the Immigration and Naturalization Service about what is a citizenship certificate. This thing exists. Well, there is a particular form that the Immigration and</p>	<p>1 any further, to the extent that specific legislatures had specific communications related, I don't want you to get into the details of those based on legislative privilege, but I think you can answer the general question.</p> <p>2 A. The person in our office whose role it is to interface with legislatures and their staff is our general counsel, Wroe Jackson.</p> <p>3 Q. Certificates of Citizenship are particular documents, are they not? Is that your understanding?</p> <p>4 A. That is -- that is what we discovered whenever we were putting this process together, yes, ma'am.</p> <p>5 Q. And that was what is specifically mentioned in the text of SB 14, is it not?</p> <p>6 A. It says -- it says certificate of citizenship, but it didn't mean citizenship certificate the way that INS means it.</p> <p>7 Q. So your interpretation is that it includes Certificate of Naturalization?</p> <p>8 A. That's right.</p> <p>9 Q. Could the Secretary of State's Office reverse its decision on this position at any time?</p> <p>10 A. Could they?</p> <p>11 Q. Yes.</p> <p>12 A. I don't know.</p> <p>13 Q. Could you legally reverse your decision and</p>
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<p>1 Naturalization Service comes up with that is a citizenship certificate by name, and we talked to the drafters of the legislation and asked them if that's what they meant when they said citizenship certificate, did they mean a particular document or did they mean the document that you get -- a person gets whenever they become a citizen, and they said the latter. We said, okay, well, there -- there's two things, then. We've got a naturalization certificate and a Certificate of Citizenship. Certificate of citizenship was meant generically in SB 14, and it actually has a specific thing. So we haven't expanded what the legislature intended, we've only implemented what the legislature intended.</p> <p>2 Q. Did you have discussions with Senator Fraser about this issue?</p> <p>3 A. No.</p> <p>4 Q. Others in the legislature?</p> <p>5 A. Did I?</p> <p>6 Q. Yes.</p> <p>7 A. No, ma'am.</p> <p>8 Q. Did anyone in your office?</p> <p>9 A. Yes, ma'am.</p> <p>10 Q. Who in your office?</p> <p>11 MR. KEISTER: Let me just -- before we go</p>	<p>1 decide that that was not an acceptable form of ID?</p> <p>2 A. I don't know.</p> <p>3 Q. You haven't issued a regulation to this effect, have you?</p> <p>4 A. No.</p> <p>5 Q. How has this been communicated to county election officials, that this form of ID is acceptable?</p> <p>6 A. We have, obviously, training materials for poll workers as well as county election officials, and it's included in that training.</p> <p>7 Q. Beyond training is there any legal embodiment, any regulation or any steps that you've taken to make this permanent in a legal sense?</p> <p>8 A. No, ma'am. The statutes made it permanent.</p> <p>9 Q. Because, as you testified earlier, you believe the legislature intended to list that form of ID even though it's not expressly included; is that correct?</p> <p>10 A. No, ma'am. That is not what I said. I said it was listed. It is listed.</p> <p>11 Q. You believe a Certificate of Naturalization is a Certificate of Citizenship? That's your testimony today?</p> <p>12 A. That is my -- that is my testimony, as the legislature intended it, you bet.</p> <p>13 Q. Do you believe that the Secretary of State's</p>

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<p>1 interpretation of including a Certificate of      2 Naturalization could be subject to any legal challenge?      3     <b>A. I don't know.</b>      4     Q. Is it being subject to any legal challenge?      5     <b>A. Well, now, that's a good question. I don't</b>      6 <b>know. Is that the claim being made in this lawsuit, that</b>      7 <b>maybe we need to narrow the forms of identification?</b>      8 <b>Because if that's the claim, then that's really weird.</b>      9     Q. Well --      10    <b>A. I'm sorry, but --</b>      11    Q. I'm going to let your counsel advise you to      12 not -- to not comment on that, but I -- I -- that is not      13 one of the claims. I was asking whether there's --      14    <b>A. I didn't think it was.</b>      15    Q. -- a legal challenge that you're aware of in      16 the state of Texas.      17    <b>A. No, ma'am. And I don't anticipate that there</b>      18 <b>would be. But the Secretary of State has the</b>      19 <b>responsibility under 31.003 of the Election Code to</b>      20 <b>interpret laws passed by the legislature, election laws,</b>      21 <b>and that's what we've done.</b>      22    Q. What IDs fall within military identification?      23    <b>A. All forms of military identification.</b>      24    Q. And who was responsible in your office for      25 making the determination as to what IDs would qualify?</p>	<p>1     Q. Is that right? Are you familiar with the      2 United States' First Request for Production of Documents?      3     <b>A. I am.</b>      4     Q. Could you describe the process for responding      5 to this request?      6     <b>A. Certainly. Our general counsel would have</b>      7 <b>received the request from our attorneys and he would have</b>      8 <b>sent it to the division directors, including me, and I</b>      9 <b>would have directed my managers to assemble documents</b>      10 <b>responsive thereto.</b>      11    Q. And who were the custodians whose records were      12 searched within the Election Division of the Secretary of      13 State?      14    <b>A. All of us.</b>      15    Q. Was there a search done -- how -- how was the      16 search conducted?      17    <b>A. Well, it comes in the context of the existence</b>      18 <b>of the litigation, and as a result of the existence of</b>      19 <b>the litigation we had received a litigation hold document</b>      20 <b>from our attorneys for all documents related to SB 14,</b>      21 <b>photo ID, and so we had segregated documents</b>      22 <b>electronically, e-mails as well as documents on our</b>      23 <b>shared drive, related to photo ID, so obviously all of</b>      24 <b>that material was produced. And then we did a search --</b>      25 <b>each person did a search on their individual drives as</b></p>
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<p>1     <b>A. The legislature made the determination about</b>      2 <b>what IDs would qualify. Our office determined what IDs</b>      3 <b>they meant when they said military ID.</b>      4     Q. And who made that determination?      5     <b>A. Our office.</b>      6     Q. Who in your office?      7     <b>A. Myself, my legal director, our general counsel,</b>      8 <b>the secretary.</b>      9     Q. Does military ID now include retiree military      10 cards and Veteran Affairs cards?      11    <b>A. I don't know what you mean by now include.</b>      12    Q. Are you interpreting it that those IDs are to      13 be accepted at the polls as compliant under SB 14?      14    <b>A. Yeah. They're on the list of -- of what is a</b>      15 <b>military ID, you bet.</b>      16    Q. Do you know why retiree military cards and      17 Veteran Affairs cards are included as acceptable military      18 ID?      19    <b>A. Because they're a military ID. They're issued</b>      20 <b>to military persons.</b>      21    Q. One of the topics in the notice of deposition      22 is the process, manner, and method of identifying items      23 in response to the United States' Request for Production      24 of Documents.      25    <b>A. Yes.</b></p>	<p>1 well as their individual e-mail archives for "photo ID,"      2 "SB 14," specific terms related to the request, and so --      3 to see if anything was not in the litigation hold      4 materials, and all of that was produced. I believe that      5 our IT department also did a global search on all of the      6 agency's drives for anything related to photo ID or      7 SB 14.      8     Q. Do you know when the litigation hold was put      9 into place?      10    <b>A. I do not.</b>      11    Q. Do you know whether it was put into place or      12 continuous from the Texas v. Holder case or is this a new      13 litigation hold for this matter?      14    <b>A. We did receive a new one, but all of the</b>      15 <b>documents that were subject to the hold under SB -- the</b>      16 <b>Holder preclearance litigation had continued in effect.</b>      17 <b>All of those documents were still being maintained.</b>      18    Q. Just to clarify, there were -- there were      19 keyword searches conducted by individual custodians of      20 e-mail in your office?      21    <b>A. That's right, if they didn't have their photo</b>      22 <b>ID separately archived.</b>      23    Q. Can you tell me who those people were who      24 conducted individual e-mail searches?      25    <b>A. All of us.</b></p>

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<p style="text-align: right;">165</p> <p>1 Q. Every single person in the elections division?</p> <p>2 <b>A. I believe so, yes, ma'am.</b></p> <p>3 Q. And you individually did that search or did</p> <p>4 your counsel?</p> <p>5 <b>A. I did it.</b></p> <p>6 Q. Was that true for all employees? Did the</p> <p>7 Office of the Attorney General conduct any searches or</p> <p>8 did -- did all the individual e-mail users do their own</p> <p>9 searches?</p> <p>10 MR. KEISTER: Don't comment on what the</p> <p>11 Office of the Attorney General did. That's worker --</p> <p>12 that's worker -- attorney -- attorney-client and work</p> <p>13 product. But you can tell her what y'all did.</p> <p>14 <b>A. We were responsible for producing our</b></p> <p>15 <b>documents. Now, that involved individual searches as</b></p> <p>16 <b>well as global searches by our IT department.</b></p> <p>17 Q. When did you most recently search your own</p> <p>18 e-mail in response to the request for production?</p> <p>19 <b>A. When it was answered.</b></p> <p>20 Q. So that would be in January or February of this</p> <p>21 year?</p> <p>22 <b>A. Yes, ma'am.</b></p> <p>23 Q. Have you conducted any subsequent searches</p> <p>24 since that time?</p> <p>25 <b>A. No, ma'am.</b></p>	<p style="text-align: right;">167</p> <p>1 request that the responses to the RFP be updated and</p> <p>2 supplemented as required by the federal rules.</p> <p>3 Q. Now we're going to turn to another topic,</p> <p>4 information provided to the legislature. I'm going to --</p> <p>5 MR. KEISTER: Elizabeth, would this be a</p> <p>6 good time for a break?</p> <p>7 MS. WESTFALL: I think it would. What is</p> <p>8 the time?</p> <p>9 MS. MARANZANO: 12:30.</p> <p>10 MS. WESTFALL: If I can push through I can</p> <p>11 get through my topics. I have a few more pages. Can you</p> <p>12 bear with me?</p> <p>13 MR. KEISTER: I'll try.</p> <p>14 MS. WESTFALL: Okay.</p> <p>15 MS. MARANZANO: Can we take a quick break?</p> <p>16 MS. WESTFALL: Yeah, let's take a quick</p> <p>17 break. We can go off the record.</p> <p>18 MR. KEISTER: Yeah.</p> <p>19 (Recess from 12:33 p.m. to 12:47 p.m.)</p> <p>20 BY MS. WESTFALL:</p> <p>21 Q. Mr. Ingram, I want to turn to a different</p> <p>22 topic, which is item number 5 on the notice related to</p> <p>23 all information that was provided to the Texas</p> <p>24 Legislature regarding certain bills.</p> <p>25 <b>A. Right.</b></p>
<p style="text-align: right;">166</p> <p>1 Q. Do you use personal e-mail to communicate with</p> <p>2 the Secretary of State employees, your personal e-mail</p> <p>3 and not the Secretary of State's e-mail to conduct</p> <p>4 official business?</p> <p>5 <b>A. No, ma'am.</b></p> <p>6 Q. Do you know whether anyone else in your office</p> <p>7 or your IT department has conducted search -- searches of</p> <p>8 e-mail or of the server in response to the RFP subsequent</p> <p>9 to January or February of this year?</p> <p>10 <b>A. I don't know what they've done. I don't</b></p> <p>11 <b>believe so.</b></p> <p>12 Q. Have you provided any additional documents</p> <p>13 since the response was -- was made in February or January</p> <p>14 of this year?</p> <p>15 <b>A. No, ma'am, just what we brought today, the</b></p> <p>16 <b>communication stuff.</b></p> <p>17 Q. Are you continuing to try to locate responsive</p> <p>18 documents in response to the request today or at any time</p> <p>19 since the responses?</p> <p>20 <b>A. No. If we were asked to we would. You know,</b></p> <p>21 <b>there have been some documents generated since the</b></p> <p>22 <b>requests for production have been responded to that would</b></p> <p>23 <b>probably be responsive, and so we could certainly.</b></p> <p>24 Q. Thank you.</p> <p>25 MS. WESTFALL: And, Mr. Keister, we would</p>	<p style="text-align: right;">168</p> <p>1 Q. During the 79th Legislative Session in 2005 did</p> <p>2 the Secretary of State's Office provide the Texas</p> <p>3 Legislature with any information or data related to voter</p> <p>4 ID?</p> <p>5 <b>A. I don't know, and the thing is, nobody in our</b></p> <p>6 <b>office knows.</b></p> <p>7 Q. Okay. And during the 80th Legislative Session</p> <p>8 in 2007 did the Secretary of State's Office provide the</p> <p>9 legislature with any information or data related to voter</p> <p>10 ID?</p> <p>11 <b>A. Again, I don't know and nobody in our office</b></p> <p>12 <b>knows. Whatever the documents reflect was provided is</b></p> <p>13 <b>what we know about.</b></p> <p>14 Q. And the same question with regard to the 81st</p> <p>15 Legislative Session in 2009; do you know whether the</p> <p>16 Secretary of State's Office provided the legislature with</p> <p>17 any information or data related to voter ID?</p> <p>18 <b>A. I don't know and nobody in our office knows.</b></p> <p>19 <b>Whatever the legislative documents and hearing testimony</b></p> <p>20 <b>reveals is what it reveals.</b></p> <p>21 Q. Turning to -- do you know whether Ann McGeehan</p> <p>22 would know the answer to those questions?</p> <p>23 <b>A. She would have a better idea than -- than</b></p> <p>24 <b>anybody currently at our office.</b></p> <p>25 Q. Would she be the best person to answer those</p>

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<p>1 questions, do you think?</p> <p>2     <b>A. I don't know. I would expect that either she</b></p> <p>3     <b>or Elizabeth Winn would be the ones to talk to, but I</b></p> <p>4     <b>don't know.</b></p> <p>5     Q. Between January 1, 2005 and May 27, 2011 did</p> <p>6     the Secretary of State's Office conduct any analyses of</p> <p>7     registered voters who possess a Texas driver license or</p> <p>8     personal ID?</p> <p>9     <b>A. I don't know. I've seen documents that reflect</b></p> <p>10     <b>that -- that there was some matching going on in the 2011</b></p> <p>11     <b>Legislative Session. I don't know if there was any</b></p> <p>12     <b>before that.</b></p> <p>13     Q. Okay. And what was that matching in 2011?</p> <p>14     <b>A. It was similar to the matching that occurred in</b></p> <p>15     <b>September of 2011, January of 2012, and August -- or July</b></p> <p>16     <b>of 2013.</b></p> <p>17     Q. Was that the only matching that you're aware of</p> <p>18     during that time period other than the other ones you</p> <p>19     just testified to?</p> <p>20     <b>A. That's right.</b></p> <p>21     Q. In 2011 did the Secretary of State's Office</p> <p>22     receive a request for a comparison of registered voters</p> <p>23     with a driver license database from the legislature?</p> <p>24     <b>A. I don't know. I think that such a request was</b></p> <p>25     <b>made, yes, ma'am.</b></p>	<p>1 transcript, which is TX 00000846, there is a colloquy</p> <p>2 between Senator Williams and Ann McGeehan concerning a</p> <p>3 data request?</p> <p>4     <b>A. I see that Senator Williams talks about that,</b></p> <p>5     <b>yes.</b></p> <p>6     Q. And he was requesting a comparison of voters</p> <p>7     with the driver license database; is that correct?</p> <p>8     <b>A. Looks like that's what he was doing, yes,</b></p> <p>9     <b>ma'am.</b></p> <p>10     Q. Is it your understanding that such an analysis</p> <p>11     was undertaken by the Secretary of State's Office?</p> <p>12     <b>A. I have seen the evidence that there was some</b></p> <p>13     <b>matching going on, yes, ma'am.</b></p> <p>14     Q. What was the evidence that you refer to?</p> <p>15     <b>A. I've seen some e-mail traffic.</b></p> <p>16     Q. What did that e-mail traffic indicate?</p> <p>17     <b>A. That there was some matching going on.</b></p> <p>18     Q. What was the results of the matching?</p> <p>19     <b>A. I don't remember. It seems like there were --</b></p> <p>20     <b>that they had done the analysis several different ways</b></p> <p>21     <b>and come up -- came up with several different results</b></p> <p>22     <b>that were all pretty close to the same thing.</b></p> <p>23     Q. What were the results, if you recall?</p> <p>24     <b>A. I don't really remember. To the best of my</b></p> <p>25     <b>recollection, it was somewhere in the 650,000 range,</b></p>
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<p>1     Q. And was it made by Senator Williams?</p> <p>2     <b>A. I don't know.</b></p> <p>3     Q. Did the division or the Secretary of State's</p> <p>4     Office subsequently conduct an analysis of registered</p> <p>5     voters compared with the driver license database?</p> <p>6     <b>A. I have seen some e-mail traffic -- whenever I</b></p> <p>7     <b>first started with the Secretary of State we were pulling</b></p> <p>8     <b>together documents related to photo ID for a public</b></p> <p>9     <b>information request, and there were some documents in</b></p> <p>10     <b>that pile that indicated that there was some matching</b></p> <p>11     <b>going on in the spring of 2011.</b></p> <p>12         MS. WESTFALL: Could you mark this.</p> <p>13         (Exhibit No. 22 marked)</p> <p>14         Q. You've been handed what's been marked as</p> <p>15     Exhibit 22. Do you recognize this?</p> <p>16     <b>A. No, ma'am.</b></p> <p>17         Q. Did you -- have you ever reviewed -- well, you</p> <p>18     can see on the -- on the cover page that it's a</p> <p>19     transcript of proceedings before the legislature in the</p> <p>20     82nd Legislature on January 25, 2011; is that right?</p> <p>21     <b>A. I do see that, yes.</b></p> <p>22         Q. So you have not reviewed this testimony in</p> <p>23     advance of this deposition today?</p> <p>24     <b>A. No, ma'am, I have not.</b></p> <p>25         Q. Are you aware that on page 490 of this</p>	<p>1     <b>600,000 range, five-eighty-six. So it was in the -- it</b></p> <p>2     <b>was in the ballpark of what was later done in September</b></p> <p>3     <b>of 2011 is what I remember, that it was not very</b></p> <p>4     <b>different from what was later done for preclearance.</b></p> <p>5         Q. Do you know who in the division of the</p> <p>6     Secretary of State's Office was involved in this matching</p> <p>7     process?</p> <p>8         <b>A. I don't know who it would have been in 2011.</b></p> <p>9         Q. And do you know whether it was released outside</p> <p>10     of the Secretary of State's Office?</p> <p>11         <b>A. I do not.</b></p> <p>12         Q. Do you know who would know the answer to that</p> <p>13     question?</p> <p>14         <b>A. I don't know if anybody would. Certainly not</b></p> <p>15     <b>anybody in our office.</b></p> <p>16         Q. Do you know if Ann McGeehan would know the</p> <p>17     answer to that question?</p> <p>18         <b>A. She might. I don't know.</b></p> <p>19         Q. Do you know if Elizabeth Winn would know the</p> <p>20     answer to that question?</p> <p>21         <b>A. She might. I don't know.</b></p> <p>22         MS. WESTFALL: Can you mark this, please.</p> <p>23         (Exhibit No. 23 marked)</p> <p>24         Q. I'm handing you what's been marked as</p> <p>25     Exhibit 23. Can you take a look at this exhibit and let</p>

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<p>1 me know if you've seen it before?</p> <p>2 <b>A. I believe this is the e-mail that was attached</b></p> <p>3 <b>to either the request for admission or request for</b></p> <p>4 <b>production.</b></p> <p>5 Q. And have you reviewed this in advance of this</p> <p>6 deposition?</p> <p>7 <b>A. No. I saw it whenever it came with the</b></p> <p>8 <b>discovery request.</b></p> <p>9 Q. Do you see that the e-mail was drafted</p> <p>10 around -- it's a bunch of e-mails from January 27, 2011,</p> <p>11 to February 1, 2011?</p> <p>12 <b>A. I see that.</b></p> <p>13 Q. And it has an analysis of voters -- or an</p> <p>14 estimate and reporting of the number of registered voters</p> <p>15 without a driver license or personal ID card?</p> <p>16 <b>A. No, I do not agree that that's what it shows.</b></p> <p>17 Q. What does it show, in your view?</p> <p>18 <b>A. It shows non-matches.</b></p> <p>19 Q. And do you see there's a summary about the</p> <p>20 question presented, a discussion, and a conclusion on</p> <p>21 page TX 00107735?</p> <p>22 <b>A. I see that.</b></p> <p>23 Q. And do you see the conclusion is between</p> <p>24 844,000 plus voters to 678,000 plus voters may not have</p> <p>25 been issued a driver license or ID by DPS?</p>	<p>1 Do you know where -- is Karen Richards</p> <p>2 employed with the Secretary of State today?</p> <p>3 <b>A. She is not.</b></p> <p>4 Q. Where is she employed?</p> <p>5 <b>A. She is, I believe -- last I heard she was</b></p> <p>6 <b>employed with VOTEC.</b></p> <p>7 Q. And where is that company based?</p> <p>8 <b>A. VOTEC, I believe, has their headquarters in</b></p> <p>9 <b>California. She works here in Austin.</b></p> <p>10 Q. When did she leave the Secretary of State's</p> <p>11 Office?</p> <p>12 <b>A. I'm not sure on her exact leave date, but I</b></p> <p>13 <b>believe it was July of 2011.</b></p> <p>14 Q. What were the circumstances of her -- the</p> <p>15 ending of her employment with the Secretary of State's</p> <p>16 Office?</p> <p>17 <b>A. I don't know. It was before my time. From</b></p> <p>18 <b>everything I can see, she got a better offer.</b></p> <p>19 Q. Do you know whether the Texas Legislature ever</p> <p>20 saw this analysis during -- when it was considering</p> <p>21 SB 14?</p> <p>22 <b>A. I don't know for sure, but I've seen nothing to</b></p> <p>23 <b>indicate that they did.</b></p> <p>24 Q. Do you know why, in response to</p> <p>25 Senator Williams' request, this wasn't provided to the</p>
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<p>1 <b>A. I see that.</b></p> <p>2 Q. And was this -- to your knowledge was this</p> <p>3 question, discussion, and conclusion drafted by Ann</p> <p>4 McGeehan?</p> <p>5 <b>A. No.</b></p> <p>6 Q. Who was it drafted by?</p> <p>7 <b>A. Karen Richards.</b></p> <p>8 Q. And who is Karen Richards?</p> <p>9 <b>A. She was the voter registration manager back</b></p> <p>10 <b>then.</b></p> <p>11 Q. Do you know whether SB 14 was being considered</p> <p>12 by the Senate or the House of the Texas Legislature at</p> <p>13 the time these e-mails were written?</p> <p>14 <b>A. I do not.</b></p> <p>15 Q. Do you know whether this analysis was conducted</p> <p>16 in response to Senator Williams' inquiry?</p> <p>17 <b>A. I don't.</b></p> <p>18 Q. Do you know whether this analysis was released</p> <p>19 outside of the Secretary of State's Office?</p> <p>20 <b>A. I do not. I've seen nothing to indicate that</b></p> <p>21 <b>it ever was.</b></p> <p>22 Q. Do you know whether anyone within the Secretary</p> <p>23 of State's Office directed that it not be released --</p> <p>24 <b>A. I don't know.</b></p> <p>25 Q. -- outside the Secretary of State's Office?</p>	<p>1 legislature?</p> <p>2 <b>A. I don't. It is my belief that it's because the</b></p> <p>3 <b>data is uncertain and we didn't want to give a wrong</b></p> <p>4 <b>impression.</b></p> <p>5 Q. And what is that belief based on?</p> <p>6 <b>A. The fact that in subsequent matching exercises</b></p> <p>7 <b>we have a pretty high degree of uncertainty.</b></p> <p>8 Q. So Senator Williams' request was not -- there</p> <p>9 was no response to him?</p> <p>10 <b>A. I don't know what response was given to him.</b></p> <p>11 Q. In 2011 did the division receive any other</p> <p>12 requests for information about voters without a driver</p> <p>13 license or a personal ID card?</p> <p>14 <b>A. I don't know.</b></p> <p>15 Q. And besides the analysis on an e-mail on</p> <p>16 Exhibit 23, are you aware of any other analyses that the</p> <p>17 division conducted that relate to SB 14 during 2011</p> <p>18 before the bill was signed into law in May?</p> <p>19 <b>A. I don't -- I don't believe that any other</b></p> <p>20 <b>analyses were performed. I think that these queries that</b></p> <p>21 <b>are outlined on page TX 00107734 are the queries that</b></p> <p>22 <b>were done.</b></p> <p>23 Q. Do you know why this analysis was not part of</p> <p>24 the defendants' interrogatory responses in response to</p> <p>25 requests about analyses that have been done of voters</p>

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<p style="text-align: right;">177</p> <p>1 without a driver license?</p> <p>2     <b>A. I don't know. That's -- I don't know.</b></p> <p>3     Q. Was any other analysis done by the Secretary of</p> <p>4 State's Office in 2011 regarding registered or eligible</p> <p>5 voters without any other forms of ID required by SB 14?</p> <p>6     <b>A. Not that I'm aware of. I don't believe so.</b></p> <p>7     Q. Can you state every single occasion on which</p> <p>8 the Secretary of State has attempted to match the TEAM</p> <p>9 database to the DPS driver license database?</p> <p>10    <b>A. Well, I don't know if I can give you every</b></p> <p>11 <b>time. I know the ones that I know about.</b></p> <p>12    Q. Okay.</p> <p>13    <b>A. And based on what I know, the DPS database</b></p> <p>14 <b>hasn't been a constant variable in these matching</b></p> <p>15 <b>exercises.</b></p> <p>16    Q. Okay. Could you describe every occasion that</p> <p>17 you're aware of?</p> <p>18    <b>A. So we've got this that happened early in 2011.</b></p> <p>19 <b>I have no idea which version of the DPS database they</b></p> <p>20 <b>used for this, and so I don't know. That's one. Then we</b></p> <p>21 <b>know about September of 2011, and what I don't know is if</b></p> <p>22 <b>previous results were given in response to requests from</b></p> <p>23 <b>the Department of Justice or if a new analysis was done.</b></p> <p>24 <b>I believe that one of these queries was produced, but I</b></p> <p>25 <b>don't know that for sure, and it looks like the numbers</b></p>	<p style="text-align: right;">179</p> <p>1 correct?</p> <p>2     <b>A. Right.</b></p> <p>3     Q. And then are you aware that in this litigation</p> <p>4 the TEAM database has been supplied to the Department of</p> <p>5 Justice along with the DPS database to conduct matching?</p> <p>6     <b>A. Sure.</b></p> <p>7     Q. Are there any other entities or parties that</p> <p>8 your office has provided the TEAM database to, to conduct</p> <p>9 matching with the driver license database?</p> <p>10    MR. KEISTER: As long as it has nothing to</p> <p>11 do with the attorney-client privilege. Don't mention</p> <p>12 anything about the OAG.</p> <p>13    <b>A. We get public information requests for the TEAM</b></p> <p>14 <b>database on a regular basis, and I don't know what people</b></p> <p>15 <b>are doing with it, so I can't really answer the question.</b></p> <p>16 <b>It could be that some people who are getting the TEAM</b></p> <p>17 <b>database are trying to do some kind of matching. I don't</b></p> <p>18 <b>know. I do know that the counties were interested in</b></p> <p>19 <b>doing matching on their own, and so they obtained a</b></p> <p>20 <b>driver license database from DPS that we facilitated that</b></p> <p>21 <b>transaction so that they could match their voter</b></p> <p>22 <b>registration data against the DPS, but they already have</b></p> <p>23 <b>the TEAM database, so I don't know if that's what you're</b></p> <p>24 <b>talking about or not.</b></p> <p>25    Q. I guess putting aside copies of the TEAM</p>
<p style="text-align: right;">178</p> <p>1 match maybe <b>Query 3</b>, but I don't know. So I don't know</p> <p>2 if there was a separate matching exercise done or if they</p> <p>3 relied on results they'd received earlier in the year.</p> <p>4 For the January 2012 matching exercise we got a new</p> <p>5 version of the DPS database that was specifically for</p> <p>6 that exercise, and it was a version that contained race</p> <p>7 and ethnicity data as the DPS had it, and so we did that</p> <p>8 exercise. That exercise happened in December of 2011</p> <p>9 before I began with the office in January of '12. And</p> <p>10 then the next time we did it was with the DPS database</p> <p>11 that was provided for the jury wheel constitution, and</p> <p>12 that was done in 2013. So those are the ones that I know</p> <p>13 about.</p> <p>14    Q. Those are the sum total that you're aware of?</p> <p>15    <b>A. That I'm aware of, yes, ma'am. And I don't</b></p> <p>16 <b>know if September of '11 was a separate matching exercise</b></p> <p>17 <b>or a giving of the data from before.</b></p> <p>18    Q. Has the Secretary of State ever provided the</p> <p>19 TEAM database to anyone other than the Department of</p> <p>20 Justice for purposes of matching to the DPS driver</p> <p>21 license office?</p> <p>22    <b>A. I don't -- I can't understand that question.</b></p> <p>23    Q. Okay. Any other -- you described some matching</p> <p>24 that the Secretary of State's Office has done itself with</p> <p>25 TEAM and DPS, correct -- the driver license database,</p>	<p style="text-align: right;">180</p> <p>1 database or communications that you've had with your</p> <p>2 counsel, because I don't want you to testify about that,</p> <p>3 have you supplied the TEAM database to anybody else with</p> <p>4 the intention of the -- for the purpose of matching</p> <p>5 against the driver license database?</p> <p>6     <b>A. I -- I don't -- I don't know how to answer that</b></p> <p>7 <b>question. I know that the Department of Justice is not</b></p> <p>8 <b>the only plaintiff in this litigation or in the previous</b></p> <p>9 <b>litigation, and I believe the other plaintiffs also</b></p> <p>10 <b>received a copy of the database. I don't know if they</b></p> <p>11 <b>actually were planning to do matching with that or not.</b></p> <p>12 <b>I just -- I don't know what the purpose of someone's</b></p> <p>13 <b>request is.</b></p> <p>14    Q. So you have not received any other matching</p> <p>15 results outside of any communications you've had with</p> <p>16 OAG's office concerning TEAM and the DPS driver license</p> <p>17 database?</p> <p>18    <b>A. No. Some counties have done some matching, and</b></p> <p>19 <b>so they've -- they've communicated some of those results</b></p> <p>20 <b>to us.</b></p> <p>21    Q. Which counties?</p> <p>22    <b>A. Parker County comes to mind.</b></p> <p>23    Q. So Parker County has matched its county</p> <p>24 database against the DPS driver license database; is that</p> <p>25 right?</p>

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<p>1     <b>A. That's right.</b></p> <p>2     Q. And there was a result and they provided it to</p> <p>3     you; is that correct?</p> <p>4     <b>A. They did.</b></p> <p>5     Q. And when did that occur?</p> <p>6     <b>A. I don't know for sure. I believe it was after</b></p> <p>7     <b>our county election official seminar last year in July of</b></p> <p>8     <b>2013, so maybe August or September of 2013.</b></p> <p>9     Q. Have any other counties engaged in similar</p> <p>10    matching?</p> <p>11    <b>A. I know that Dallas County has done it. I've</b></p> <p>12    <b>seen news media reports indicating that they've got</b></p> <p>13    <b>results that they've acted upon. And then I know that</b></p> <p>14    <b>Harris County has done it. They haven't reported to us</b></p> <p>15    <b>the results, but I know that they've got copies of both</b></p> <p>16    <b>of those databases, done some matching, and reached out</b></p> <p>17    <b>to voters. And I know that Travis --</b></p> <p>18    Q. But Dallas -- Dallas and Harris -- I'm sorry --</p> <p>19    and Travis have not supplied you with the fruits of that</p> <p>20    matching?</p> <p>21    <b>A. That's right. And I don't know if any other</b></p> <p>22    <b>counties have done it. I just don't know.</b></p> <p>23    Q. Do you know what fields they compared in</p> <p>24    conducting those matches or do you have any information</p> <p>25    about how those matches were conducted?</p>	<p>1     <b>off-line counties it means that there is a task for the</b></p> <p>2     <b>off-line county to perform with regard to that voter, and</b></p> <p>3     <b>the task is a 99 to cancel.</b></p> <p>4     Q. How many counties are still not on-line with</p> <p>5     TEAM?</p> <p>6     <b>A. I think the current number is 215 on-line and</b></p> <p>7     <b>39 off-line.</b></p> <p>8     Q. When you get a weak match, as referred to in</p> <p>9     the -- in the interrogatory responses --</p> <p>10    <b>A. Sure.</b></p> <p>11    Q. -- what happens to them?</p> <p>12    <b>A. Weak matches are investigated by the counties.</b></p> <p>13    <b>There was a little tweak -- I believe it was</b></p> <p>14    <b>House Bill 3593 -- that required the counties to do some</b></p> <p>15    <b>actual investigative work before they send a letter. It</b></p> <p>16    <b>used to be that counties could claim as their</b></p> <p>17    <b>investigation sending a confirmation notice to the</b></p> <p>18    <b>potentially deceased voter, but now the law requires them</b></p> <p>19    <b>to do an actual investigation before they send a letter.</b></p> <p>20    <b>If they can't determine if the voter is deceased or if</b></p> <p>21    <b>they can't determine if the voter is alive, then they</b></p> <p>22    <b>will send a letter to the voter that says, we've done</b></p> <p>23    <b>some matching and it looks like you could be deceased, we</b></p> <p>24    <b>hope you're not.</b></p> <p>25    Q. And that's done at the county level?</p>
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<p>1     <b>A. I do not.</b></p> <p>2     Q. I would like to turn to matching between the</p> <p>3     Bureau of Vital Statistics and the TEAM database.</p> <p>4     <b>A. Okay.</b></p> <p>5     Q. Your interrogatory responses indicate that the</p> <p>6     vital statistics sends over a list of deceased persons to</p> <p>7     the Secretary of State's Office weekly; is that right?</p> <p>8     <b>A. That is correct.</b></p> <p>9     Q. And what happens with that information?</p> <p>10    <b>A. It is -- it automatically goes through a</b></p> <p>11    <b>process where matches are made and sent out to the</b></p> <p>12    <b>counties.</b></p> <p>13    Q. This is an automatic process that -- that</p> <p>14    matches the deceased individuals identified by vital</p> <p>15    statistics with TEAM and then it just sends it out; is</p> <p>16    that correct?</p> <p>17    <b>A. That's right.</b></p> <p>18    Q. And this is conducted centrally in your office?</p> <p>19    <b>A. It is since 2007.</b></p> <p>20    Q. Then the individual counties get those results</p> <p>21    and determine what to do in terms of list maintenance for</p> <p>22    their own county list; is that correct?</p> <p>23    <b>A. Not exactly. For the strong-matched deceased,</b></p> <p>24    <b>they are automatically canceled in TEAM. For on-line</b></p> <p>25    <b>counties that means that the voter is canceled. For</b></p>	<p>1     <b>A. That's all at the county level.</b></p> <p>2     Q. Does the voter still stay in active status</p> <p>3     during all the investigation until the letter goes out?</p> <p>4     It's not put in any sort of suspense or inactive status?</p> <p>5     <b>A. Their status doesn't change unless 30 days goes</b></p> <p>6     <b>by without a response to the letter.</b></p> <p>7     Q. And then if there is no response, they're</p> <p>8     presumed to be deceased then?</p> <p>9     <b>A. They're canceled. 16.037 of the Election Code</b></p> <p>10    <b>requires immediate reinstatement if someone is wrongfully</b></p> <p>11    <b>canceled, so if they show up and they're not actually</b></p> <p>12    <b>deceased, then they're immediately reinstated and vote a</b></p> <p>13    <b>regular ballot.</b></p> <p>14    Q. They will not appear on the list of registered</p> <p>15    voters, correct?</p> <p>16    <b>A. That's correct.</b></p> <p>17    Q. But if they appear with a proper ID and a voter</p> <p>18    registration card, what happens then?</p> <p>19    <b>A. If they appear with a proper ID -- they don't</b></p> <p>20    <b>need the voter registration card unless they're disabled,</b></p> <p>21    <b>but if they appear with a proper ID and they say, this is</b></p> <p>22    <b>my precinct, then often the poll workers will call the</b></p> <p>23    <b>voter registrar and the voter registrar will look them up</b></p> <p>24    <b>and will determine if they were canceled for being</b></p> <p>25    <b>deceased, and they'll say, but I'm not dead yet, and they</b></p>

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<p style="text-align: right;">185</p> <p>1 <b>will be reinstated.</b></p> <p>2 Q. Turning to your interrogatory responses again,</p> <p>3 at page 66 -- I believe it's Exhibit 2. Is a weak match</p> <p>4 found where there is a match on first name, last name,</p> <p>5 date of birth alone without also looking at Social</p> <p>6 Security number when comparing TEAM with the</p> <p>7 Social Security Administration Death Master File?</p> <p>8 <b>A. Yeah, that -- that's a different process. So</b></p> <p>9 <b>the Bureau of Vital Statistics, first name, last name,</b></p> <p>10 <b>date of birth is not one of the matching criteria.</b></p> <p>11 Q. Right. But did I accurately describe what</p> <p>12 happens with regard to the Social Security Administration</p> <p>13 Death Master File?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And the Social Security -- the -- pardon me.</p> <p>16 The Secretary of State started using the Social Security</p> <p>17 Administration Death Master File in June 2012; is that</p> <p>18 right?</p> <p>19 <b>A. That is correct.</b></p> <p>20 Q. Was there a reason why the Secretary of State's</p> <p>21 Office did not use it prior to that time?</p> <p>22 <b>A. It was not required to by the legislature. The</b></p> <p>23 <b>legislature passed a bill that ended up being 18.068 of</b></p> <p>24 <b>the Election Code that required it.</b></p> <p>25 Q. That was in 2012?</p>	<p style="text-align: right;">187</p> <p>1 name on the list of registered voters, and so there was</p> <p>2 no real need to be tight with regard to name fields</p> <p>3 inside of TEAM. But with the advent of the substantially</p> <p>4 similar name requirement versus exact name match some</p> <p>5 voters might be interested to know how their name is</p> <p>6 going to appear on the official list of registered</p> <p>7 voters, and so to have the name appear on the voter</p> <p>8 registration certificate the way it will appear on the --</p> <p>9 on what we call the OLRV, then to have it appear on the</p> <p>10 look-up for Am I Registered the way it'll appear on the</p> <p>11 OLRV, and then to appear on the OLRV in a uniform way, we</p> <p>12 tightened up the name rules inside of TEAM.</p> <p>13 Q. What do you mean? Can you just describe --</p> <p>14 I -- I understand the similar -- similar name rule, but</p> <p>15 what is the tightening that you're --</p> <p>16 <b>A. Well, before --</b></p> <p>17 Q. -- referring to?</p> <p>18 <b>A. Before we messed with the name fields inside of</b></p> <p>19 <b>TEAM it's possible that a voter could have a voter</b></p> <p>20 <b>registration card with one name on it, they could look</b></p> <p>21 <b>themselves up on Am I Registered and see a different</b></p> <p>22 <b>version of their name, and then they could show up on the</b></p> <p>23 <b>official list of registered voters and it would be yet</b></p> <p>24 <b>another version of their name. They were all the same</b></p> <p>25 <b>names that they had given to us when they registered to</b></p>
<p style="text-align: right;">186</p> <p>1 <b>A. Yes. Well, they passed the bill in 2011.</b></p> <p>2 Q. Was there anything that prevented the Secretary</p> <p>3 of State's Office from using the Death Master File prior</p> <p>4 to that time?</p> <p>5 <b>A. It -- it costs money to have the Death Master</b></p> <p>6 <b>File and we didn't have any budget for it, so I don't</b></p> <p>7 <b>know if that was the reason. I didn't -- I wasn't here</b></p> <p>8 <b>before 2012, so I don't know what the office's thought</b></p> <p>9 <b>was with regard to the Social Security Administration's</b></p> <p>10 <b>Death Master File before 2012.</b></p> <p>11 Q. Are you aware of any legal prohibition on using</p> <p>12 the Death Master File prior to that time?</p> <p>13 <b>A. Prohibition? I don't know of any prohibition.</b></p> <p>14 Q. It just wasn't required; is that your</p> <p>15 testimony?</p> <p>16 <b>A. Right. And -- and -- yeah, that's right.</b></p> <p>17 Q. Turning to Topic 17, what changes have been</p> <p>18 made to the TEAM database to implement and enforce</p> <p>19 SB 14's requirements?</p> <p>20 <b>A. The TEAM database has been -- has been updated</b></p> <p>21 <b>to accommodate the E for the disability exemption so that</b></p> <p>22 <b>that can be coded for a voter. The other thing that</b></p> <p>23 <b>changed was we tightened up the name fields. So prior to</b></p> <p>24 <b>SB 14 there was no category for exact name match versus</b></p> <p>25 <b>substantially similar name, it was just find the voter's</b></p>	<p style="text-align: right;">188</p> <p>1 vote, but they weren't first, middle, last, former,</p> <p>2 nickname, suffix, you know, all of the things that are --</p> <p>3 that are -- so what we did inside of TEAM is make that</p> <p>4 tight so that first, middle, and last would show up over</p> <p>5 the mailing address on the voter registration</p> <p>6 certificate, first, middle, and last would show up if</p> <p>7 someone looks themselves up on Am I Registered, and</p> <p>8 first, middle, and last would show up on the official</p> <p>9 list of registered voters. So what we did is we made the</p> <p>10 names consistent so that a voter could look themselves up</p> <p>11 and have notice beforehand if there's not an exact match</p> <p>12 to whatever form of ID they want to use.</p> <p>13 Q. Did you make any changes to the provisional</p> <p>14 ballot fields?</p> <p>15 <b>A. No.</b></p> <p>16 Q. So if a provisional ballot is rejected does</p> <p>17 TEAM indicate the reason for rejection?</p> <p>18 <b>A. No.</b></p> <p>19 Q. And is it still the case that TEAM only</p> <p>20 reflects successful applicants for disability exemptions?</p> <p>21 <b>A. I believe that's correct, yes, ma'am.</b></p> <p>22 Q. So if you apply and you're rejected, it's not</p> <p>23 so indicated?</p> <p>24 <b>A. Right. The counties would have that</b></p> <p>25 <b>information.</b></p>

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<p style="text-align: right;">189</p> <p>1     Q. Is the Secretary of State's Office doing 2     anything to monitor whether counties are properly 3     administering the disability exemption?</p> <p>4     <b>A. What do you mean?</b></p> <p>5     Q. To see whether they're correctly processing 6     applications?</p> <p>7     <b>A. Again, what do you mean?</b></p> <p>8     Q. To determine whether the counties are using the 9     proper criteria?</p> <p>10    <b>A. No, I understand that question. What I don't 11    understand is what you would suggest we would do to 12    monitor their success or failure.</b></p> <p>13    Q. Well, are you aware -- are you aware of whether 14    they are successfully implementing it or not? Is there 15    any oversight whatsoever you can identify today in your 16    deposition?</p> <p>17    <b>A. I don't know what form this oversight would 18    take.</b></p> <p>19    Q. So is the answer no?</p> <p>20    <b>A. Well, I mean, we respond to questions that the 21    counties ask. If they have a question about the process, 22    if they have a question about a document they received 23    from a potentially disabled person and what to do with 24    it, then certainly we respond to questions. And so there 25    is assistance that we give, but that's -- that's our</b></p>	<p style="text-align: right;">191</p> <p>1     <b>with regard to -- some sort of supplemental or extra way 2     with regard to voter ID or substantially similar name or 3     whatever, then they can undertake that on the county 4     level. That is not our responsibility, yes, ma'am.</b></p> <p>5     MS. WESTFALL: Okay.</p> <p>6     MR. ROSENBERG: Okay. Why don't we take a 7     break until 2:00. Is that good? And then we'll continue 8     with the other questioning.</p> <p>9     (Recess from 1:15 p.m. to 2:00 p.m.)</p> <p>10    <b>EXAMINATION</b></p> <p>11    <b>BY MR. BARON:</b></p> <p>12    Q. Good afternoon, Mr. Ingram. My name is Neil 13    Baron. I'm one of the lawyers with the Veasey-LULAC 14    group.</p> <p>15    <b>A. Howdy.</b></p> <p>16    Q. I'm going to talk to you for a few minutes 17    about substantially similar.</p> <p>18    <b>A. Okay.</b></p> <p>19    Q. Before I go into that I wanted to -- I heard 20    you testify earlier today that the Secretary of State's 21    role is to implement the law that's passed by the 22    legislature. Do you remember talking about that?</p> <p>23    <b>A. I do.</b></p> <p>24    Q. And that you don't -- you're not an enforcement 25    agency?</p>
<p style="text-align: right;">190</p> <p>1     <b>role. Secretary of State is not an enforcement agency, 2     it's not an investigative agency, it is a -- it is -- it 3     is technical support for elections in Texas, and in that 4     role we do assist counties with disability exemptions, 5     you bet.</b></p> <p>6     Q. And what is -- I mean, that assistance is the 7     questions? If a county has a question you will answer 8     it, otherwise you let the counties administer it?</p> <p>9     <b>A. And we -- we did the frequently asked questions 10    that included a portion on disability exemption. As I 11    recall, there were quite a few questions answered that we 12    had received from counties that we figured needed a 13    broader broadcast of answers to those questions.</b></p> <p>14    Q. I believe you testified earlier that voters who 15    do not have appropriate SB 14 are the county's voters. 16    It's the county's responsibility. Is that a correct 17    summary of your testimony?</p> <p>18    <b>A. No. I don't know what that is.</b></p> <p>19    Q. Well, with regard to registered voters who do 20    not have a qualifying ID, that to the extent EICs are to 21    be offered, it's the responsibility of the counties, it's 22    the responsibility of DPS; is that correct?</p> <p>23    <b>A. No, that -- if I gave that impression, then 24    that's not what I meant to convey. What I mean to convey 25    is that if a county wants to interact with its voters</b></p>	<p style="text-align: right;">192</p> <p>1     <b>A. That is true.</b></p> <p>2     Q. And you supply technical assistance to counties 3     that request it?</p> <p>4     <b>A. That is true, as well as advisories 5     prophylactic in nature.</b></p> <p>6     Q. So I was looking at your website, and it says 7     that the Secretary of State serves as the chief election 8     officer to assist county election officials to ensure 9     uniform application and interpretation of election laws 10    throughout Texas. Is that also one of your 11    responsibilities?</p> <p>12    <b>A. That is, 31.003 of the Election Code.</b></p> <p>13    Q. Uniformity?</p> <p>14    <b>A. Uniformity.</b></p> <p>15    Q. And so --</p> <p>16    <b>A. Obtain and maintain uniformity.</b></p> <p>17    Q. Okay. In the application, operation, and 18    interpretation of the code, right?</p> <p>19    <b>A. That's right.</b></p> <p>20    Q. So when we look at substantially similar, your 21    office adopted 81.71, Texas Administrative Code.</p> <p>22    <b>A. That's true.</b></p> <p>23    Q. I think back in 2011?</p> <p>24    <b>A. The initial version of that rule was adopted in 25    2011. There was an emergency version that was an</b></p>

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<p>1 amendment thereto that was adopted before the November of  2 2013 election, and subsequently that emergency version,  3 as slightly modified, was finally adopted, I believe, two  4 or three or four weeks ago.</p> <p>5 Q. The one I'm looking at here in front of me  6 says: Amended to be effective April 3, 2014. Does that  7 sound right to you?</p> <p>8 A. That sounds right.</p> <p>9 Q. And so looking through this I'm struck by the  10 amount of discretion given to the election worker, and  11 I want to talk to you about that for a few minutes.</p> <p>12 A. Sure.</p> <p>13 Q. With regard to substantially similar the rule  14 says that if the name does not match exactly, the  15 election worker shall refer to the standards in Section  16 C. Do you want a copy of this in front of you to look  17 at?</p> <p>18 A. I've got one.</p> <p>19 Q. I know you do, and it might be helpful. I  20 promise not to spend too much time parsing words with  21 you, but I do need to go over a few of these things.</p> <p>22 A. Sure.</p> <p>23 Q. So looking down there, it says a voter's name  24 is considered substantially similar, and then it  25 references those four examples, 1, 2, 3, and 4, right?</p>	<p>1 what you refer to when you're talking about the on-line.  2 We've got -- we've got several different --  3 Q. The training materials that I've looked at  4 on-line.</p> <p>5 A. Right. And I don't know what you've looked at.  6 Q. Okay.</p> <p>7 A. Have you taken the on-line poll worker training  8 course from start to finish or have you just reviewed a  9 PowerPoint?</p> <p>10 Q. I reviewed the PowerPoints.</p> <p>11 A. Which PowerPoints?</p> <p>12 Q. I'll bring those up. Let's move on and I'll  13 come back to that, okay?</p> <p>14 A. No, no, I'm just -- I'm asking because we've  15 got several different publications and they've changed  16 a little bit over time, but with regard to similar name  17 they've been pretty consistent across -- across  18 publications.</p> <p>19 Q. Okay. Well, let's -- I'll bring that up in a  20 second and we'll come back to it while I keep on working  21 my way through this part of the process.</p> <p>22 Do you agree that the election worker has  23 total discretion to determine whether the name on the  24 offered ID is not substantially similar to the official  25 list of registered voters?</p>
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<p>1 A. I wouldn't call them examples. I think there  2 are examples within those categories, but those are four  3 different ways that we feel that names can be  4 substantially similar, yes.</p> <p>5 Q. Sure. But, for example, to repeat myself,  6 number 2 says it's for illustrative purposes only, right?</p> <p>7 A. That's right.</p> <p>8 Q. And it uses some terminology, for example, on  9 C(1), slightly different.</p> <p>10 A. Right.</p> <p>11 Q. See that? On C(2), customary, right?</p> <p>12 A. Customary variation, yes, sir.</p> <p>13 Q. And so that's kind of in the eyes of the  14 beholder, right? That's up to the election worker at the  15 time the ID is presented.</p> <p>16 A. Right.</p> <p>17 Q. Are there any official Secretary of State  18 publications, other than what I'm looking at here in  19 Rule 81.71 and your on-line training, which has some more  20 examples of names, like Lady Bird Johnson and William  21 Clements and Earl C. Campbell -- I mean, I could bring  22 them all out. Are there any official publications that  23 give the election workers guidance on the definitions of  24 slightly different or customary?</p> <p>25 A. I'm not sure what you mean and I don't know</p>	<p>1 A. I don't know what that means, total discretion.  2 Q. Okay. Can --</p> <p>3 A. And I don't know what it means when you say  4 election worker. You're going to have to ask a specific  5 question.</p> <p>6 Q. Okay. I thought that was a specific question.  7 Election worker is defined in Rule 81.71. Take a look at  8 81.71(b) right there on the first page.</p> <p>9 A. Right.</p> <p>10 Q. Talks about the reviewing early voting clerk,  11 deputy early voting clerk, election judge, or election  12 clerk collectively included in the term election worker.</p> <p>13 A. Sure.</p> <p>14 Q. So we can have an agreement today that when  15 I say election worker that's what I'm referring to?</p> <p>16 A. Right. But I don't know what you mean when you  17 say total discretion. There is a process that happens at  18 a polling place when a voter presents themselves to vote,  19 and in the process of qualifying a voter to vote there is  20 a process that's gone through. So you would have  21 initially an election clerk checking in a voter. If an  22 election clerk had a question that they felt like they  23 were unable to resolve or if they resolved the question  24 and the voter was unhappy with that resolution, then they  25 can appeal to the election judge in that polling</p>

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<p style="text-align: right;">197</p> <p>1   <b>location. The election judge will then make a decision.</b>    2   <b>If, for some reason, the voter or -- is not happy or the</b>    3   <b>judge feels like they can't make a decision, then they</b>    4   <b>can call the early voting clerk. So when you say total</b>    5   <b>discretion, I don't know what that means with regard to</b>    6   <b>the specific players in the polling place on election day</b>    7   <b>qualifying the voter.</b></p> <p>8   Q. All right. Well, let's go through them one at    9   a time, then, because your rule collectively calls them    10   election workers.</p> <p>11   <b>A. Sure.</b></p> <p>12   Q. So the early voting clerk would be a clerk    13   who's employed during early voting, correct?</p> <p>14   <b>A. No.</b> An early voting clerk is typically the    15   chief election official for the entity holding the    16   election, so if it's a school district election it'll be    17   the school superintendent; if it's a city, then it'll be    18   the city secretary; if it's a county election it'll be    19   the county clerk or the election administrator. So the    20   early voting clerk changes depending on who's holding the    21   election.</p> <p>22   Q. Okay. Tell me what you define the deputy early    23   voting clerk as.</p> <p>24   <b>A. Well, a deputy early voting clerk is somebody</b>    25   <b>that works in the early voting clerk's office, whoever</b></p>	<p style="text-align: right;">199</p> <p>1   Q. So when the voter shows up, those people have    2   the discretion to determine whether the voter's name on    3   the ID that he offers, the SB 14 ID that he offers or she    4   offers, is substantially similar to what the Secretary of    5   State has on your OLRV, your official list of registered    6   voters.</p> <p>7   <b>A. Yeah. And really I don't mean to quibble, but</b>    8   <b>the OLRV is a county document.</b></p> <p>9   Q. That's okay. We're here to quibble. That's    10   okay.</p> <p>11   <b>A. It's not a Secretary of State document.</b></p> <p>12   Q. All right.</p> <p>13   <b>A. The OLRV is generated by the county and it --</b>    14   <b>in the first instance, the election workers on scene have</b>    15   <b>that discretion. They can -- if they have a question</b>    16   <b>they can call the early voting clerk and talk to the</b>    17   <b>clerk or one of their staff members, a deputy early</b>    18   <b>voting clerk, and then, obviously, all of this gets</b>    19   <b>reviewed by the voter registrar during the cure period,</b>    20   <b>so the voter registrar then makes a recommendation to the</b>    21   <b>early voting ballot board. The early voting ballot board</b>    22   <b>is the one who makes the final decision, if someone had</b>    23   <b>to vote provisionally, whether to accept that provisional</b>    24   <b>ballot or not. So there is discretion in the first</b>    25   <b>instance when a voter presents themselves, and that</b></p>
<p style="text-align: right;">198</p> <p>1   <b>that is.</b></p> <p>2   Q. Election judge?</p> <p>3   <b>A. Election judge is the one who has been</b>    4   <b>appointed either for early voting or for election day by</b>    5   <b>either -- either the entity holding the election or</b>    6   <b>political party to be the election judge for a polling</b>    7   <b>place.</b></p> <p>8   Q. And election clerk?</p> <p>9   <b>A. Election clerks are people that the election</b>    10   <b>judge picks to staff the polling location with him or</b>    11   <b>her.</b></p> <p>12   Q. So when we go down to C where it talks about    13   when a voter's name is considered substantially similar,    14   it says that election workers should consider whether    15   information on the presented ID document matches elements    16   of the voter's information on the official list of    17   registered voters, correct?</p> <p>18   <b>A. That's right.</b></p> <p>19   Q. So election workers would include all of the    20   people that we just talked about in B.</p> <p>21   <b>A. That's right.</b></p> <p>22   Q. It would basically include anybody authorized    23   to administer the election at the particular polling    24   location.</p> <p>25   <b>A. Yes.</b></p>	<p style="text-align: right;">200</p> <p>1   <b>discretion we've encouraged them to exercise for the</b>    2   <b>benefit of the voter, and if that voter is unhappy with</b>    3   <b>that resolution at the polling location they will have</b>    4   <b>the opportunity with the voter registrar and the early</b>    5   <b>voting ballot board to change that outcome.</b></p> <p>6   Q. So let's talk about the voter registrar. Skip    7   on down to Section J, the last portion of the rule where    8   it says that in determining whether an ID document    9   presented to the voter registrar -- this is based on a    10   provisional ballot now.</p> <p>11   <b>A. Right.</b></p> <p>12   Q. The voter registrar shall utilize the processes    13   outlined in subsections C and D of this section, which    14   takes you right back to where we just were, right?</p> <p>15   <b>A. That's right.</b></p> <p>16   Q. So the voter registrar's decision is equally as    17   discretionary as the election worker's --</p> <p>18   <b>A. Sure.</b></p> <p>19   Q. -- in terms of whether that individual person    20   thinks the name is substantially similar or not.</p> <p>21   <b>A. That's right.</b></p> <p>22   Q. Now, is there an appeal process from a decision    23   of the voter registrar to not count a vote?</p> <p>24   <b>A. No.</b></p> <p>25   Q. That's a final decision, correct?</p>

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<p style="text-align: right;">201</p> <p>1     <b>A. That is not a final decision, it's a</b>    2     <b>recommendation that's made to the early voting ballot</b>    3     <b>board. The early voting ballot board has the final</b>    4     <b>decision.</b></p> <p>5     Q. Now, we have run a few elections in Texas under    6     this new law.</p> <p>7     <b>A. Yes, we have.</b></p> <p>8     Q. The November 2013 constitutional, the    9     March 2014 primary, and a few school board bond election    10    type elections, I think, in probably, what, September of    11    2013?</p> <p>12    <b>A. Yeah, in the November 2013 election on the</b>    13    <b>uniform date there were local elections across the state,</b>    14    <b>so there were city and school district elections as well</b>    15    <b>as the constitutional amendment election, so it was a</b>    16    <b>uniform date available for elections to be held, and</b>    17    <b>quite a few entities across the state took advantage of</b>    18    <b>the availability of that date. In addition to the</b>    19    <b>uniform election date on the first Tuesday in November of</b>    20    <b>2013 and the March primary we have had several school</b>    21    <b>districts have tax ratification/tax rollback elections</b>    22    <b>that are not required to be held on a uniform date and we</b>    23    <b>might have had a city council special election for a home</b>    24    <b>rule city with four-year terms, and they can have those</b>    25    <b>special elections that aren't on a uniform date according</b></p>	<p style="text-align: right;">203</p> <p>1     state, right?</p> <p>2     <b>A. That is one of the goals of the office, yes,</b>    3     <b>sir, statutory obligation.</b></p> <p>4     Q. Has there been any analysis conducted by the    5     Secretary of State on the substantially similar    6     combination form that's been used in these elections?</p> <p>7     <b>A. I'm not sure I understand what that question</b>    8     <b>means.</b></p> <p>9     Q. Has the Secretary of State gotten copies of    10    these forms from the various counties to take a look at    11    how substantially similar is being implemented?</p> <p>12    <b>A. You're talking about the combo form where a</b>    13    <b>voter signs in?</b></p> <p>14    Q. Yes.</p> <p>15    <b>A. We have not made a practice of looking at combo</b>    16    <b>forms. Occasionally we'll get a combo form when someone</b>    17    <b>makes an election law complaint regarding something</b>    18    <b>that's on that form, so --</b></p> <p>19    Q. So the answer to my question is that you    20    haven't, in the Secretary of State's Office anyway, taken    21    a look at any of these combo forms from these elections    22    in 2013 or 2014 since Senate Bill 14 was passed into law.</p> <p>23    <b>A. No, we have not made a practice of procuring</b>    24    <b>combo forms from the counties.</b></p> <p>25    Q. What about analyzing provisional ballots; have</p>
<p style="text-align: right;">202</p> <p>1     <b>to Article 11, Section 11 of the constitution.</b></p> <p>2     Q. And although none of these elections are of the    3     magnitude in terms of volume of voters as the    4     presidential or gubernatorial, it is a fair number of    5     elections, and particularly November and March 2013 and    6     March 2014 took place in every county across the state,    7     correct?</p> <p>8     <b>A. That's right. I can't -- I hesitate because</b>    9     <b>the primary is the party -- the political party primary,</b>    10    <b>and so there's some counties that didn't have a</b>    11    <b>Democratic Primary because there wasn't a party chair to</b>    12    <b>put on election. There are some counties that didn't</b>    13    <b>have a Republican Primary. I'm not aware of any county</b>    14    <b>that didn't have both party chairs and didn't have a</b>    15    <b>primary at all, but it could be that there was such a</b>    16    <b>county. I just -- I don't think there was in 2014. I</b>    17    <b>know for 2012 primary election that in the runoff</b>    18    <b>Sterling County didn't have a runoff at all because both</b>    19    <b>party chairs quit between the runoff and the primary.</b></p> <p>20    Q. So with the possible exception of a county or    21    two, every county has had an opportunity to administer a    22    couple of elections under this new law.</p> <p>23    <b>A. I believe so, yes, sir.</b></p> <p>24    Q. And we agree that part of the SOS' mission is    25    to ensure uniform administration of elections across the</p>	<p style="text-align: right;">204</p> <p>1     you taken a look at any of those?</p> <p>2     <b>A. I don't know if we've seen any, but we</b>    3     <b>certainly haven't made a practice of pulling provisional</b>    4     <b>ballots from counties and looking at them.</b></p> <p>5     Q. What, if anything, have -- has, so that I don't    6     ask you personally, the Secretary of State's Office done    7     to analyze and ensure that the counties and the election    8     workers are implementing Senate Bill 14 uniformly across    9     the state with regard specifically to the substantially    10    similar name issue?</p> <p>11    <b>A. I don't know -- it seems like you have a</b>    12    <b>misconception of the Secretary of State's role. As I --</b>    13    <b>as I said to Ms. Westfall before, we are not an</b>    14    <b>enforcement agency.</b></p> <p>15    MR. BARON: I'm going to object as    16    nonresponsive.</p> <p>17    <b>A. Can I answer your question, sir?</b></p> <p>18    Q. If you get around to answering it, that'll be    19    fine.</p> <p>20    <b>A. I'm answering your question.</b></p> <p>21    Q. Okay.</p> <p>22    <b>A. It comes in a context. All of this comes in a</b>    23    <b>context, and the context is that our office has a 1-800</b>    24    <b>number available to county election officials and it has</b>    25    <b>a 1-800 number available to voters, and every single</b></p>

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<p>1 voter registration certificate has on it that 1-800  2 number for the voters to use, and so we have a feedback  3 loop that is phenomenal from voters and from election  4 officials, and if there is an issue with regard to some  5 portion of the administration of an election we hear  6 about it. We hear about it quickly. And so I don't know  7 the best way to tell you this, but if there was an issue  8 with regard to the implementation of the substantially  9 similar name rules we would have heard about it, and we  10 haven't heard about it at all, not from a voter and not  11 from an election official. There hasn't been any issue  12 raised with our office with regard to substantially  13 similar names, and so it is our belief, our strong  14 belief, that there hasn't been any problem with regard to  15 the implementation of the substantially similar name  16 rules.</p> <p>17 Now, if we were wrong in that regard and  18 if we were hearing about voters who were being  19 disenfranchised because they were wrongly believed to  20 have their name not be substantially similar, then we  21 would take action in that regard same as we do whenever  22 we hear that a voter doesn't have a provisional ballot  23 offered to them. If we hear that a voter has not been  24 offered the opportunity to vote provisionally, the voter  25 calls and they're upset, we will immediately call that</p>	<p>1 A. That is right.  2 Q. I believe you get those calls. Having been a  3 frequent caller to the Secretary of State's Office  4 myself, I have absolutely no reason to doubt that you  5 guys get thousands of calls, but I want to ask you a  6 slightly different question. Are those logged?  7 A. No, not generally as a matter of course.  8 However, on election day whenever we -- we put together  9 a phone bank and -- the lawyers and some of the other  10 voter registration people in my office, we put computers  11 and phones in a conference room and we collectively take  12 phone calls in that room all day, and those calls are  13 logged into an access database. So the election day  14 phone calls are logged.  15 Q. And are those maintained?  16 A. Yes.  17 Q. So those would be available for us? There  18 would be a log of those types of calls from election day?  19 A. There should be.  20 Q. Any other time period?  21 A. You know, sometimes if we get a phone call from  22 a place, the lawyers, if they don't know the answer right  23 off, will send an e-mail to the other lawyers asking  24 about, you know, I got this phone call, this is the  25 question, what do we -- what do we say back to the</p>
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<p>1 county on election day, during the early voting period,  2 whenever it happens, and we will tell that county, this  3 is the complaint we received from the voter, this is the  4 place where they tried to vote, you need to make sure  5 that those poll workers understand that they need to  6 offer a voter a provisional ballot, they can't make that  7 decision for the voter. And so that is the way this  8 process works from our perspective.</p> <p>9 Q. Have you completed your answer?</p> <p>10 A. I think so.</p> <p>11 MR. BARON: Okay. I'm going to object as  12 nonresponsive.</p> <p>13 Q. I just want to verify that the Secretary of  14 State's Office has not analyzed any of the combo forms  15 for the substantially similar sign-in sheets/affidavits  16 or the provisional ballots that have been cast in any of  17 the elections held in Texas since the implementation of  18 SB 14. Correct?</p> <p>19 A. And as I said previously, we have not made a  20 practice of pulling combo forms or provisional ballots  21 from the counties with regard to those elections.</p> <p>22 Q. And you're relying, I guess, on the lack of  23 phone complaints you receive from I think what you said  24 earlier in your deposition was literally thousands of  25 calls per month?</p>	<p>1 county, and so we could have an indirect reference to  2 phone calls that way.  3 Q. Of the thousands of calls you get a month, who  4 categorizes the subject matter of the calls? I mean,  5 you --  6 A. The caller does.  7 Q. Sure. But at the Secretary of State's Office.  8 I mean, you said they're not about substantially similar  9 name problems, for example.  10 A. Uh-huh.  11 Q. Who takes those calls and who categorizes them?  12 How do you know what they're about?  13 A. Sure. That's a fair question. My office is  14 right outside the receptionist area where we have three  15 receptionists whose full-time job is to answer phone  16 calls, so I hear them talking. In addition, the phone  17 calls that we receive if the frontline receptionist can't  18 answer the question for the voter will go through to  19 either voter registration or electronic funds management  20 or the legal division for resolution, and I meet weekly  21 with my managers for those sections and we talk about  22 what's going on, and one of the things that we talk  23 about -- my -- my administration manager, Louri O'Leary,  24 one of the things that she'll talk about is call volume  25 and the nature of the calls, but we don't keep a record</p>

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<p style="text-align: right;">209</p> <p>1 of what calls come in with regard to what. But    2 whenever -- whenever the voter registration certificates    3 are mass-mailed out, you know, you can hear that a lot of    4 the calls are about the voter registration certificate    5 and, you know, the information that's on it, so that's    6 the questions that the receptionists are answering    7 primarily, and there has never been a time where the    8 topic of the phone calls has been problems with similar    9 name implementation at the polling place.</p> <p>10 There have been calls and there have been    11 periods where the phone calls have been about,    12 prospectively, I'm going to go vote, I'm afraid I won't    13 be able to because my name doesn't match. We had a whole    14 bunch of those calls, and so that was before the November    15 of 2013 election, but there hasn't been any calls    16 retrospectively or during the active voting about an    17 issue regarding substantially similar name, and there    18 would have been if there was a problem. That I can    19 promise you.</p> <p>20 Q. The combo forms would tell us whether the    21 election workers are implementing substantially similar    22 name policy correctly, right?</p> <p>23 A. I don't know if they would or not. I don't    24 think so. I don't know why you think that.</p> <p>25 Q. Well, I guess when I went to vote with my ID,</p>	<p style="text-align: right;">211</p> <p>1 made to vote provisionally, that would be of some value    2 in this -- in this regard, yes, sir.</p> <p>3 Q. And do you know how many provisional ballots    4 were cast as a result of the March 2014 primary    5 elections?</p> <p>6 A. I do not.</p> <p>7 Q. Do you reside in Travis or Williamson?</p> <p>8 A. Williamson.</p> <p>9 Q. Do you have any idea how many were cast in    10 Williamson?</p> <p>11 A. For the March primary I haven't asked Jason    12 that question. I think it was something like 25 for    13 November. I can text him right now if you want me to.</p> <p>14 Q. Well, I think you're familiar with    15 Bill Sargent, right?</p> <p>16 A. I am.</p> <p>17 Q. My elections administrator?</p> <p>18 A. I am familiar with Sarge.</p> <p>19 Q. We're going to come back to Sarge in a few    20 minutes. I think we had 160 in Galveston --</p> <p>21 A. Okay.</p> <p>22 Q. -- in the primaries, I think 25 in the    23 Democratic Primary and 120 or 130 in the Republican    24 Primary.</p> <p>25 A. Total provisional ballots?</p>
<p style="text-align: right;">210</p> <p>1 which is Neil G. Baron, and my voter registration was    2 Neil Geoffrey Baron, I had to initial the affidavit.</p> <p>3 A. Sure.</p> <p>4 Q. So it would seem to me that that would identify    5 the fact that I had a substantially similar name issue    6 that was correctly addressed, because middle initial    7 versus full middle name is one of the specific examples    8 in 81.71, right?</p> <p>9 A. That's right. But that's of no informational    10 value to my office in determining whether there's a    11 problem to correct. That is -- that is -- that is all    12 the way it's supposed to be. What would indicate there's    13 a problem to my office that would need to be corrected    14 either with the local officials with regard to their poll    15 worker training or something else would be if people are    16 made to vote provisionally when their name is Neil    17 J. Baron instead of Neil Jefferson Baron. That's when I    18 would know we had a problem, and that would be of value    19 to determine whether or not additional training would be    20 necessary.</p> <p>21 Q. And so the better documents to analyze, from    22 what you're telling me, would be the provisional ballots.</p> <p>23 A. If there were provisional ballots where someone    24 had a substantially similar name or what we would    25 consider to be a substantially similar name and they were</p>	<p style="text-align: right;">212</p> <p>1 Q. Yes.</p> <p>2 A. Okay.</p> <p>3 Q. About 160.</p> <p>4 A. Yeah, I think I heard 154 for Galveston, but --</p> <p>5 Q. I'm probably -- I'm rounding up. If you were    6 to just extrapolate that statewide you would think there    7 would have been multiple thousands of provisional ballots    8 cast statewide at least.</p> <p>9 A. For the primary I believe there were several    10 thousand. I think there was maybe 3,000 or 4,000 right    11 here in Travis County. They were not ID related.</p> <p>12 Q. And I guess my question there is, if you    13 haven't analyzed them how do you know?</p> <p>14 A. Because I can read the news and I can talk to    15 Travis County election officials and I can talk to Sarge.</p> <p>16 Q. And so that would be a better source of    17 information than the provisional ballots themselves?</p> <p>18 A. No.</p> <p>19 Q. So you -- prior to the implementation of    20 Senate Bill 14 you did receive concerns expressed in    21 e-mails and letters -- or the Secretary of State's    22 Office?</p> <p>23 A. Sure.</p> <p>24 (Exhibit No. 24 marked)</p> <p>25 Q. I mean, for example, I'm just going to hand you</p>

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<p style="text-align: right;">213</p> <p>1 what's been marked as Exhibit 24, which is an    2 October 2011 letter to Ann McGeehan. It's fair to say    3 that this is an example of several types of    4 correspondence that's been received by the Secretary of    5 State's Office from 2011 continuing pretty much into the    6 end of last year, right?</p> <p>7 <b>A. I agree with that. As a matter of fact, I got</b>    8 <b>some correspondence yesterday similar to this, but it</b>    9 <b>wasn't exactly like this. It was about similar names</b>    10 <b>being inappropriately applied. But yes.</b></p> <p>11 Q. Okay. And since we're taking Sarge's name in    12 vain, I'll let you take a look at -- keep that. I'm    13 going to ask you a couple of general questions about    14 these three or four documents I'm going to give you.    15 (Exhibit No. 25 marked)</p> <p>16 Q. This is the Sarge e-mail and this is an    17 e-mail -- it's several e-mails, but the one at the bottom    18 of the page -- or in the middle of the page from    19 Melanie Huff to Betsy Schonhoff with the last paragraph    20 about Sarge making the classic mistake of ensuring    21 identity.    22 (Exhibit No. 26 marked)</p> <p>23 Q. Exhibit 26 is another e-mail from Elizabeth    24 Winn to Melanie Huff referencing concerns about giving    25 the election worker what's essentially unfettered</p>	<p style="text-align: right;">215</p> <p>1 voter registration function out of the two separate    2 county offices and combine them in one office under a    3 person who's actually named an election administrator    4 under Chapter 31 of the code.</p> <p>5 Q. Fair enough. Regardless, there are at least    6 254 different people running elections in the 254    7 counties in the state of Texas.</p> <p>8 <b>A. Well, sort of. It depends upon what election</b>    9 <b>we're talking about. You know, if you've got the primary</b>    10 <b>election that we just had, some of those the county runs</b>    11 <b>for the parties, some of those the parties run for</b>    12 <b>themselves, and so you can have a lot more than 254</b>    13 <b>during a primary. You also have elections where, like</b>    14 <b>the November constitutional amendment election, the</b>    15 <b>county can be running a constitutional amendment election</b>    16 <b>at the same time entities are running a separate local</b>    17 <b>entity election. So yeah, I would say at least 254.</b></p> <p>18 Q. At least and probably more.</p> <p>19 <b>A. Right.</b></p> <p>20 Q. And quite a few concerns have been regularly    21 raised about this issue with substantially similar.</p> <p>22 <b>A. I don't -- I don't know what time period you're</b>    23 <b>talking about.</b></p> <p>24 Q. Well, the e-mails that I've handed you so far    25 run from -- there's one in August of 2011, one in January</p>
<p style="text-align: right;">214</p> <p>1 discretion.</p> <p>2 So we've got 254 counties in the state,    3 some with hardly anybody living in them and some with    4 multiple millions of people, right?</p> <p>5 <b>A. That's right.</b></p> <p>6 Q. We've got some counties where the tax assessor    7 is also the voter registrar, some counties where the    8 county clerk is the voter registrar, some counties where    9 they've actually, like Galveston, created an elections    10 administration position, right?</p> <p>11 <b>A. Galveston has not created an election</b>    12 <b>administration position.</b></p> <p>13 Q. Well, Sarge is the -- he works for the county    14 clerk, but he is the elections administrator.</p> <p>15 <b>A. He is the deputy at the clerk's office that</b>    16 <b>deals with elections; however, the tax</b>    17 <b>assessor-collector, Cheryl Johnson, is in charge of voter</b>    18 <b>registration.</b></p> <p>19 Q. She is in charge of voter registration, that's    20 correct, but Sarge runs the elections. But I won't get    21 into an argument with you about Galveston County.    22 Throughout the state there are counties that have    23 election administrators.</p> <p>24 <b>A. Right. And the point of an election</b>    25 <b>administrator is to take the election function and the</b></p>	<p style="text-align: right;">216</p> <p>1 of 2013, one in October of 2011.    2 (Exhibit No. 27 marked)</p> <p>3 Q. I actually neglected to hand you the Caroline    4 Geppert e-mail, Exhibit 27, dated October 21, 2013.</p> <p>5 <b>A. Okay.</b></p> <p>6 Q. I think you testified that in advance of these    7 elections there were regular calls from voters concerned    8 about problems they might have with this substantial    9 similarity issue, correct?</p> <p>10 <b>A. That -- that is exactly correct, and that is my</b>    11 <b>point with regard to nailing down the time frame. Most</b>    12 <b>of these exhibits that you've shown me have to do with</b>    13 <b>before Shelby County even came down, so there hadn't been</b>    14 <b>any communication with the counties other than 81.71</b>    15 <b>about what substantially similar name meant or how to</b>    16 <b>exercise their discretion at the polling place. We</b>    17 <b>hadn't had a county election officials seminar that we</b>    18 <b>did in July of 2013, we hadn't had any PowerPoint</b>    19 <b>presentations, and we hadn't done any poll worker</b>    20 <b>training modifications, and so all of that was very</b>    21 <b>preliminary, very prophylactic. I will say that on my</b>    22 <b>first day, whenever I first joined the Secretary of</b>    23 <b>State's Office, January 5, 2012, I had a meeting with</b>    24 <b>Elizabeth Winn, and Elizabeth Winn was the legal director</b>    25 <b>at the time and she told me, she said, Keith, the problem</b></p>

<p style="text-align: right;">217</p> <p>1 with voter ID is not going to be people not having IDs,    2 the problem with voter ID is going to be substantially    3 similar names. So substantially similar names was very    4 much on people's minds going into the process.    5 However -- and it became -- it became a factor in the    6 public's mind with some news reports primarily from    7 Judge Watson in Corpus Christi who had raised it with her    8 local news media, so then that's when we started getting    9 e-mails like this one to Caroline worrying about whether    10 or not they were going to have a problem voting. And I    11 want to emphasize that people are not bashful about    12 contacting our office about issues that they perceive    13 with regard to the election process, and since elections    14 have actually happened there has been no complaints with    15 regard to the implementation of substantially similar    16 name. It has been a non-factor. So with regard to how    17 it was going to be, people were very concerned and we had    18 a lot of communication about that. How it's actually    19 been, not a problem as far as we're concerned or as far    20 as we can tell.</p> <p>21 Q. And you're relying totally on the anecdotal    22 information from your fielding of phone calls and not on    23 any data analysis.</p> <p>24 A. We haven't done any data analysis from the    25 counties. However, I have talked to a lot of county</p>	<p style="text-align: right;">219</p> <p>1 Election Code. Since we don't have any budget for    2 investigation, we don't have any budget for enforcement,    3 what we can do is listen carefully to our constituents,    4 see if there's a problem that needs to be addressed and    5 to address it.</p> <p>6 As an example, during early voting for the    7 primary, right in the middle of early voting we got    8 a phone call from a voter who said, I used my new VA card    9 to vote and they wouldn't take it, so that's how we    10 learned that the Veterans Affairs Administration had    11 issued a different form of the card. We immediately that    12 day sent out an advisory to all the counties, VA's got a    13 new card, this is what it looks like, please put it in    14 your list of acceptable forms of ID.</p> <p>15 Q. Fair enough. We've gone over this several    16 times. The only documentation on the calls would be the    17 election day logs?</p> <p>18 A. No, that's not what I said.</p> <p>19 Q. Okay. Tell me what you said.</p> <p>20 A. I said that sometimes we'll generate e-mails    21 about them, especially if there's a pattern of phone    22 calls, I'm getting a lot of phone calls about this,    23 should we issue an advisory. There'll be e-mails about    24 that.</p> <p>25 Q. Okay. And as far as you know those logs are</p>
<p style="text-align: right;">218</p> <p>1 election officials about their provisional ballots and    2 asking them how it went, what were the issues, what came    3 up. Substantially similar name has not been an issue.    4 Some of the issues that we've heard from voters with    5 regard to substantially similar name as a result of these    6 two elections are the voters believe -- their -- their    7 belief that the poll workers were making them change    8 their name. They were still allowed to vote, they just    9 were offered the opportunity to change their name with a    10 name change form and they believed that the poll worker    11 was making them change the name, and they didn't want to    12 change their name on the voter registration, they wanted    13 to change their name on their driver license. So we've    14 heard some of those kind of complaints, but nobody that    15 was told they couldn't vote or had to vote a provisional    16 ballot because their name didn't match.</p> <p>17 Q. Again, all based on anecdotal --</p> <p>18 A. Based on a tool that we use --</p> <p>19 Q. What tool is that?</p> <p>20 A. -- in our office, and this is the feedback that    21 we get. If there is an issue that we hear three or four    22 or five or ten phone calls on, then we have a pretty good    23 indication that it's more widespread than that and we'll    24 issue an advisory. That is a very important tool in our    25 arsenal with regard to the implementation of the</p>	<p style="text-align: right;">220</p> <p>1 maintained by your office somewhere?</p> <p>2 A. The access database for election day? You bet.</p> <p>3 Q. How would we get those?</p> <p>4 A. I don't know. I guess you can make a request.</p> <p>5 Q. What type of information is reflected in those    6 logs?</p> <p>7 A. It depends on how much information the caller    8 gave us. Usually we'll have the caller's name or a    9 portion thereof, we'll have the county, we try to get the    10 precinct where they voted, and then the nature of the    11 problem, the complaint, the issue that they raised.</p> <p>12 Q. Is that maintained in some kind of Excel    13 spreadsheet or something?</p> <p>14 A. Access database.</p> <p>15 Q. All right. Let's talk briefly about the    16 affidavit. Senate Bill 14 requires a voter who is    17 determined to be substantially similar to still sign an    18 affidavit to confirm that he or she is that person,    19 correct?</p> <p>20 A. You're talking about 63.001(c)?</p> <p>21 Q. Yeah, the bill itself.</p> <p>22 A. Yeah, and it's codified at 63.001(c).</p> <p>23 Q. Right. Yeah, sure. Let me pull my copy of it    24 out too, get specifically to the language. I just want    25 to talk about the process that was utilized to create the</p>

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<p>1 combination form.</p> <p>2       <b>A. Sure. Yeah, C says that if in making a</b></p> <p>3 <b>determination under this subsection an election officer</b></p> <p>4 <b>determines under standards adopted by the Secretary of</b></p> <p>5 <b>State that the voter's name --</b></p> <p>6       THE REPORTER: Would you slow down.</p> <p>7       <b>A. I'm sorry. I think the reading is boring, so I</b></p> <p>8 <b>try to go through it quickly.</b></p> <p>9       <b>If in making a determination under this</b></p> <p>10 <b>subsection the election officer determines under</b></p> <p>11 <b>standards adopted by the Secretary of State that the</b></p> <p>12 <b>voter's name on the documentation is substantially</b></p> <p>13 <b>similar to, but does not match exactly with, the name on</b></p> <p>14 <b>the list, the voter shall be selected for voting under</b></p> <p>15 <b>subsection (d) if the voter submits an affidavit stating</b></p> <p>16 <b>that the voter is the person on the list of registered</b></p> <p>17 <b>voters.</b></p> <p>18       Q. And I think starting in 2011, and probably</p> <p>19 continuing for a while, various people, including</p> <p>20 counties, raised concerns about the procedure that was</p> <p>21 going to be necessary to implement that.</p> <p>22       <b>A. Well, I don't know --</b></p> <p>23       Q. The actual signing of an affidavit.</p> <p>24       <b>A. Sure. And I don't know exactly what concerns</b></p> <p>25 <b>might have been raised in that regard from counties</b></p>	<p>1 <b>combo form that would allow the voter to check a box, and</b></p> <p>2 <b>I didn't feel like that was a sufficient attestation of</b></p> <p>3 <b>an affidavit. I thought that at least initials needed to</b></p> <p>4 <b>be given and not a checkmark, so I would not approve</b></p> <p>5 <b>Harris County's proposed combo form for a checkmark.</b></p> <p>6       Q. And that was implemented pursuant to the</p> <p>7 Secretary of State's authority to adopt rules to</p> <p>8 essentially implement that statute, correct?</p> <p>9       <b>A. That's right.</b></p> <p>10       Q. And that's an authority that you have?</p> <p>11       <b>A. You bet.</b></p> <p>12       Q. That's part of your mission?</p> <p>13       <b>A. That's right.</b></p> <p>14       Q. And so if there were other problems with</p> <p>15 implementation of this law, you would have the same</p> <p>16 ability to adopt rules or regulations in order to solve</p> <p>17 those problems, whatever they might be, correct?</p> <p>18       <b>A. Well, it would depend. I mean, you know, if</b></p> <p>19 <b>there's a substantive issue that somebody has, the</b></p> <p>20 <b>legislature would have to address that. So I don't know</b></p> <p>21 <b>what you're talking about. I can't really speak</b></p> <p>22 <b>hypothetically.</b></p> <p>23       Q. Well, that's fair. You had previously</p> <p>24 testified that your role is to implement the law.</p> <p>25       <b>A. That's right.</b></p>
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<p>1 <b>because I arrived in the office on January 5, 2012, and</b></p> <p>2 <b>the folks who were here before that aren't here anymore.</b></p> <p>3 <b>But I will say that when I arrived the proposed form of</b></p> <p>4 <b>the affidavit was a separate piece of paper that was --</b></p> <p>5 <b>looked like an affidavit.</b></p> <p>6       Q. Going to be actually notarized.</p> <p>7       <b>A. Well, the election judge has the discretion of</b></p> <p>8 <b>a district court judge on election day, and so the</b></p> <p>9 <b>election judge would be the one that would be actually</b></p> <p>10 <b>attesting to all these signatures. But it would be a</b></p> <p>11 <b>very troublesome process to have a separate piece of</b></p> <p>12 <b>paper in the election kit that would now have to be used</b></p> <p>13 <b>for who knows how many voters, and because of the power</b></p> <p>14 <b>of the election judge to witness signatures I asked</b></p> <p>15 <b>Elizabeth Winn at the time, why can't we just put this on</b></p> <p>16 <b>the combo form; they used to -- before SB 14 they used to</b></p> <p>17 <b>have to sign an affidavit that you've lost your</b></p> <p>18 <b>certificate if you show up to vote with another form of</b></p> <p>19 <b>ID besides your certificate, and that was on the combo</b></p> <p>20 <b>form, why can't we do this that way. And I talked to</b></p> <p>21 <b>Steve Rayburn in Tarrant County. He thought that would</b></p> <p>22 <b>be a much better way to handle it, so that is what we</b></p> <p>23 <b>started working toward with changing the combo form to</b></p> <p>24 <b>add that as a place for the voter to initial. And</b></p> <p>25 <b>Harris County wanted to use their own version of the</b></p>	<p>1       Q. And this is an example of passing a rule to</p> <p>2 implement a portion of the law.</p> <p>3       <b>A. This is an example of prescribing a form to</b></p> <p>4 <b>implement a law.</b></p> <p>5       Q. I guess adjusting the technical definition of</p> <p>6 an affidavit.</p> <p>7       <b>A. No, I don't believe we've adjusted the</b></p> <p>8 <b>definition of an affidavit at all. We have prescribed</b></p> <p>9 <b>the form of affidavit to take -- that it has to take,</b></p> <p>10 <b>yes.</b></p> <p>11       Q. Right. Initials.</p> <p>12       <b>A. That's right.</b></p> <p>13       Q. Versus a check.</p> <p>14       <b>A. Versus a check.</b></p> <p>15       Q. Check is no good. Initials, in your opinion,</p> <p>16 were okay.</p> <p>17       <b>A. Sufficient indication of intent.</b></p> <p>18       Q. Didn't think you needed the whole separate form</p> <p>19 signed by the voter in front of the elections official?</p> <p>20       <b>A. No.</b></p> <p>21       Q. And that was done, again, pursuant to your</p> <p>22 authority to -- as the chief election officer of the</p> <p>23 state.</p> <p>24       <b>A. That's right.</b></p> <p>25       Q. Okay. Let me talk to you briefly about the</p>

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<p>1 OLRV, the official list of registered voters. You  2 testified a little while ago that that's a county  3 document?</p> <p>4 <b>A. That's right.</b></p> <p>5 Q. Generated from the TEAM database?</p> <p>6 <b>A. Not for all counties.</b></p> <p>7 Q. How many counties don't access TEAM, don't use  8 TEAM to get their OLRV?</p> <p>9 <b>A. I don't know. Some of the off-line counties --</b>  10 <b>there's 39 off-line counties currently, but some of them</b>  11 <b>actually do generate their OLRV out of TEAM, some</b>  12 <b>generate it out of their proprietary voter registration</b>  13 <b>database, and I don't know which are which. I don't know</b>  14 <b>if we keep track of that.</b></p> <p>15 Q. Tell me -- it's my understanding that the  16 source of data that the OLRV would need from TEAM was  17 updated, and I think you testified earlier in response to  18 Ms. Westfall's questions about how you adjusted the  19 fields. Remember that testimony?</p> <p>20 <b>A. That we tightened up the name rules inside of</b>  21 <b>TEAM, yes.</b></p> <p>22 Q. So that you could be sure to have former names  23 included in a specific order? Tell me -- tell me exactly  24 what you did.</p> <p>25 MR. BARON: Well, strike that.</p>	<p>1 <b>it done was so that voters looking themselves up before</b>  2 <b>the November election would be able to have good</b>  3 <b>information. We had our county election officials</b>  4 <b>seminar toward the end of July, I believe, and it was</b>  5 <b>after that seminar that we undertook this process.</b></p> <p>6 Q. Since it's been completed has it been tested  7 for accuracy other than through the process of the  8 election?</p> <p>9 <b>A. I -- I don't know -- I mean, we test things</b>  10 <b>before we implement them, so --</b></p> <p>11 Q. What did you do?</p> <p>12 <b>A. The voter registration team in my office, the</b>  13 <b>voter registration section, Betsy's group, they do all of</b>  14 <b>the assurance testing before -- before a software update</b>  15 <b>is put into production, so that testing would have</b>  16 <b>occurred before it went into production. Since it's gone</b>  17 <b>into production we have real world evidence as well. But</b>  18 <b>yeah, it seems to have done exactly what it was intended</b>  19 <b>to do.</b></p> <p>20 Q. And tell me in your opinion what that was.</p> <p>21 MR. KEISTER: Objection. Are you asking  22 for his personal opinion or the Secretary of State's?</p> <p>23 Q. In the context of the Secretary of State's  24 Office what was the intent or the purpose of it?</p> <p>25 <b>A. Right. And the intent is what I just said,</b></p>
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<p>1 Q. Just tell me what you did. We'll take out  2 exactly, okay?</p> <p>3 <b>A. Yeah, because technically I have no earthly</b>  4 <b>idea. The mission that was given to the IT department</b>  5 <b>with regard to TEAM was to make it so that someone's</b>  6 <b>official list of registered voters name would appear over</b>  7 <b>the mailing address on their voter registration</b>  8 <b>certificate, would appear on Am I Registered if they</b>  9 <b>looked themselves up, and would appear on the OLRV in</b>  10 <b>exactly the same way. So I don't know how the technical</b>  11 <b>people made that happen. I understand that the name</b>  12 <b>rules inside of TEAM with regard to fields for particular</b>  13 <b>names were not well defined prior to us making it well</b>  14 <b>defined in connection with this process that my voter</b>  15 <b>registration manager and I thought was necessary, and</b>  16 <b>part of our reason for thinking it was necessary is</b>  17 <b>because of input from the counties because they were</b>  18 <b>concerned that voters who wanted to look themselves up</b>  19 <b>would get two or three different answers.</b></p> <p>20 Q. When was that update completed?</p> <p>21 <b>A. I don't know.</b></p> <p>22 Q. I saw an e-mail that looked like it was being  23 undertaken in August of last year. Does that sound about  24 right?</p> <p>25 <b>A. It does. And the reason that we needed to get</b></p>	<p>1 <b>that our office was of the opinion that a voter needed to</b>  2 <b>have the form of the name that was going to show up on</b>  3 <b>the official list of registered voters match at least one</b>  4 <b>of the names on the voter registration certificate as</b>  5 <b>well as the Am I Registered. The Am I Registered one is</b>  6 <b>the one that required the tweaking, and it had the</b>  7 <b>corollary benefit of tweaking the voter registration name</b>  8 <b>as well.</b></p> <p>9 Q. All right. Let me take you -- this is  10 Exhibit 2, and I'm going to take you to page 42, go  11 through a few things with you on this.</p> <p>12 <b>A. Sure.</b></p> <p>13 Q. Well, actually, if you look on page 40, I think  14 that's where the question is. Sorry. So on page 44, the  15 last paragraph talks about totality of circumstances.</p> <p>16 <b>A. Right.</b></p> <p>17 Q. You assisted in answering this question?</p> <p>18 <b>A. I did.</b></p> <p>19 Q. Okay. And so what this answer tells me is that  20 totality of circumstances can only be used to assist the  21 voter in determining that the name is substantially  22 similar; is that correct?</p> <p>23 <b>A. That is correct.</b></p> <p>24 Q. Cannot be used to disqualify the voter --  25 quote/unquote, disqualify as being not substantially</p>

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<p style="text-align: right;">229</p> <p>1 similar.</p> <p>2     <b>A. That's right.</b></p> <p>3     Q. So just as an example, if my name's not -- you</p> <p>4     know, Neil G. versus Neil Geoffrey -- I'll use the same</p> <p>5     example I've been using -- and my date of birth doesn't</p> <p>6     match, the election worker is supposed to ignore that?</p> <p>7     <b>A. I don't know what you mean. If your name</b></p> <p>8     <b>matches exactly --</b></p> <p>9     Q. No, we're not talking about -- right. I</p> <p>10    understand. But forget about matching exactly. We're</p> <p>11    talking about in the case of a non-exact match, so now</p> <p>12    we're making a substantially similar determination,</p> <p>13    right?</p> <p>14     <b>A. Right.</b></p> <p>15     Q. If my name doesn't match exactly, then that</p> <p>16    bounces us to is it substantially similar, correct?</p> <p>17     <b>A. That's right.</b></p> <p>18     Q. And then the election officer, the election</p> <p>19    worker, whichever one of these individuals it might be,</p> <p>20    has the ability to look at address, date of birth, some</p> <p>21    of the other information to assist that official in</p> <p>22    determining whether the name is substantially similar,</p> <p>23    correct?</p> <p>24     <b>A. Right. And that's -- that's not exactly the</b></p> <p>25     <b>way I would picture the decision tree. If someone</b></p>	<p style="text-align: right;">231</p> <p>1 the election worker should -- doesn't say may, says</p> <p>2 should use the totality of circumstances method to verify</p> <p>3 the voter's identity, and then it goes on to talk about</p> <p>4 the election worker should compare all available</p> <p>5 information on the list of registered voters and the</p> <p>6 voter's identification, such as date of birth, address,</p> <p>7 and other information to assist in making a</p> <p>8 determination. That's what it -- that's what these</p> <p>9 answers say, right?</p> <p>10     <b>A. That's right.</b></p> <p>11     Q. So what you're saying here today is that if it</p> <p>12    obviously fits in one of these categories, like a middle</p> <p>13    initial or a former name, they shouldn't go with totality</p> <p>14    of circumstances, they should automatically conclude</p> <p>15    substantially similar exists.</p> <p>16     <b>A. That's right. That's the way we've taught it</b></p> <p>17     <b>to the counties, that's the way it's in the poll worker</b></p> <p>18     <b>training, that's the way I've given it in I don't know</b></p> <p>19     <b>how many speeches since this implementation has occurred.</b></p> <p>20     <b>So if I need to amend this answer so that it makes you</b></p> <p>21     <b>feel better, I'm glad to do that. This is not what we've</b></p> <p>22     <b>told the counties.</b></p> <p>23     Q. Okay. So the answers in these interrogatories</p> <p>24    are different than what you believe is being disseminated</p> <p>25    by your office to the counties?</p>
<p style="text-align: right;">230</p> <p>1 doesn't have an exact match and the only difference is</p> <p>2 there's a middle initial versus a middle name, then they</p> <p>3 don't need totality of the circumstances. That -- that's</p> <p>4 substantially similar. So totality of the circumstances</p> <p>5 only comes in when you've got something like Claudia</p> <p>6 Taylor Johnson versus Lady Bird Johnson. Then you've</p> <p>7 got -- then you've got to sort of go outside the name</p> <p>8 itself to determine whether or not this is the same</p> <p>9 person.</p> <p>10     What we've told the counties repeatedly is</p> <p>11    that the point from our office's perspective of SB 14 is</p> <p>12    to prevent in-person voter impersonation fraud. It's a</p> <p>13    measure to make sure that the person standing in front of</p> <p>14    you is the person who's on the official list of</p> <p>15    registered voters. And so from our perspective, if you</p> <p>16    can make that determination with the information that</p> <p>17    you've got in front of you, then give the benefit of the</p> <p>18    doubt to the voter and let them vote. It's only if there</p> <p>19    is no possible way to verify the identity of the voter</p> <p>20    from the identification provided that they vote</p> <p>21    provisionally.</p> <p>22     Q. But this is what confuses me, because I'm</p> <p>23    reading the sworn answers and it says if the election</p> <p>24    worker is trying to determine if a voter's name fits into</p> <p>25    one or more categories of substantially similar names,</p>	<p style="text-align: right;">232</p> <p>1     <b>MR. KEISTER: Objection, that's</b></p> <p>2     <b>mischaracterizing his answer in the interrogatory.</b></p> <p>3     <b>MR. BARON: Well, let me clarify it. I'm</b></p> <p>4     <b>not trying to -- this part, this section that we're</b></p> <p>5     <b>talking about right here, this paragraph --</b></p> <p>6     <b>MR. KEISTER: I know, but the following</b></p> <p>7     <b>paragraph spells out what Mr. Ingram is trying to</b></p> <p>8     <b>explain, and I think it's only fair to allow him to read</b></p> <p>9     <b>that whole paragraph.</b></p> <p>10     <b>A. And my point is that I don't believe it's at</b></p> <p>11     <b>variance with what we've been telling the counties, and</b></p> <p>12     <b>my point is that if you've misunderstood our answer so</b></p> <p>13     <b>that it's not clear, then I am perfectly willing to amend</b></p> <p>14     <b>this answer to make it more clear so that you understand</b></p> <p>15     <b>exactly what we intended.</b></p> <p>16     Q. Well, it's not my understanding that I'm</p> <p>17    worried about, it's those more than 254 election</p> <p>18    administrators throughout Texas and the thousands upon</p> <p>19    thousands of election workers who are trying to implement</p> <p>20    this statute in a way that it sounds like you are trying</p> <p>21    to do to ensure that people --</p> <p>22     <b>A. Can vote.</b></p> <p>23     Q. -- get to vote.</p> <p>24     <b>A. And those election officials haven't read these</b></p> <p>25     <b>interrogatory answers. They've heard our training.</b></p>

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<p style="text-align: right;">233</p> <p>1 Q. So to get back to totality of circumstances, 2 regardless of when it's used, it's not supposed to be 3 used, as this answer says, to the detriment of the voter. 4 <b>A. That's right.</b> 5 Q. Which means that, again, if the election worker 6 isn't sure whether the name fits into one or more of the 7 categories of substantially similar names, the election 8 worker is supposed to look at the other information 9 that's available. 10 <b>A. Right, to assist the voter, not to their</b> 11 <b>detriment.</b> 12 Q. And only to benefit the voter. 13 <b>A. That's right.</b> 14 Q. Besides this interrogatory answer, where else 15 is that directive located? 16 <b>A. It's in all of our training materials, it's in</b> 17 <b>every speech we give, it's -- it is what we say. It's</b> 18 <b>what we say in our advisories, it's what we say in the</b> 19 <b>FAQ that's an exhibit to this deposition.</b> 20 Q. Is it in 81.71 somewhere? 21 <b>A. I don't know.</b> 22 Q. Part of the reason I ask that is because I -- 23 you're familiar with concerns that a number of voters, 24 particularly in Harris and Dallas County, I think for 25 sure, have default dates of birth because they registered</p>	<p style="text-align: right;">235</p> <p>1 <b>A. Yes. And it's -- it's not just the totality of</b> 2 <b>the circumstances. You know, we have voters who call us</b> 3 <b>on election day who say that they weren't allowed to vote</b> 4 <b>because their address didn't match on the driver license</b> 5 <b>and the official list of registered voters and their name</b> 6 <b>is an exact match. So this is not a situation where it's</b> 7 <b>just the totality of the circumstances. Some poll</b> 8 <b>workers just don't understand that the addresses don't</b> 9 <b>have to match, and so it's very important that they get</b> 10 <b>that information, and we try every way we can to make</b> 11 <b>sure that poll workers understand that, that the address</b> 12 <b>doesn't have to match.</b> 13 Q. All right. Again on totality of circumstances, 14 it also applies to the photographic identification. I'm 15 just looking at your answers. After the election workers 16 found the voter on the list of registered voters they 17 still have to compare the voter to the photo, right? 18 <b>A. It's what 63.001(d) calls verifying the</b> 19 <b>identity of the voter.</b> 20 Q. Right. And there they may use the totality of 21 circumstances to assist in verifying the voter's 22 identity? 23 <b>A. Right. If the pictures don't look a lot the</b> 24 <b>same, then they can use other information available to</b> 25 <b>them to help the voter.</b></p>
<p style="text-align: right;">234</p> <p>1 before HAVA. 2 <b>A. Sure.</b> 3 Q. So there's a fairly large number of people who 4 are still in the voter database, in the TEAM database, 5 whose dates of birth are probably not accurate, correct? 6 <b>A. Absolutely. I don't know if it's a lot. I</b> 7 <b>know that last I heard there was about 24,000 in Dallas.</b> 8 <b>And so I don't know, you know, out of a million</b> 9 <b>registered voters if that's a lot, but there are some,</b> 10 <b>you bet.</b> 11 Q. Sure. But we all -- 12 <b>A. We've heard about a situation down in Jim Wells</b> 13 <b>County from the 2012 election where somebody thought</b> 14 <b>there was voter fraud because several voters had, you</b> 15 <b>know, January 1, 1911, as their date of birth, and nobody</b> 16 <b>believed that many --</b> 17 Q. People would all be born on the same day? 18 <b>A. Right, and that old voting, and it was just</b> 19 <b>because that's the placeholder that was put in for people</b> 20 <b>who don't have a date of birth in the voter registration</b> 21 <b>database.</b> 22 Q. And so it's important -- that's another one of</p>	<p style="text-align: right;">236</p> <p>1 <b>Q. And is that the same rule, only to the benefit</b> 2 <b>of the voter, or in that circumstance can totality of</b> 3 <b>circumstances be used to the detriment of the voter's</b> 4 <b>right to vote?</b> 5 <b>A. No, it's the same thing. It's to help the</b> 6 <b>voter, not to -- not to count against him.</b> 7 Q. And is that information also contained in all 8 of your training materials? 9 <b>A. Sure.</b> 10 Q. A couple of other questions that aren't really 11 on substantially similar. The 25 mobile EIC units that 12 you talked about this morning? 13 <b>A. Sure.</b> 14 Q. Do you know whether any outside groups, True 15 The Vote, King Street Patriots, any of those independent 16 organizations were allowed at the EICs? 17 <b>A. I don't know what that means.</b> 18 Q. Were they allowed to be present in the EICs 19 when they were operable? 20 <b>A. Allowed?</b> 21 Q. Yes. 22 <b>A. It was not a closed area. Anybody was allowed.</b> 23 Q. Okay. I think you testified about this as well 24 this morning. But did the Secretary of State have any 25 specific goal in terms of number of days of advance</p>

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<p style="text-align: right;">237</p> <p>1 notice for when the EICs would be in place?</p> <p>2 <b>A. As much as we could manage.</b></p> <p>3 Q. So there was no specific goal, you just did as</p> <p>4 much as you could?</p> <p>5 <b>A. We tried to put it in as much advance as we</b></p> <p>6 <b>could so that the county would have the opportunity to</b></p> <p>7 <b>get information out to the news media and so that our</b></p> <p>8 <b>media office could put out a press release. We tried to</b></p> <p>9 <b>endeavor to have as much advance notice as possible.</b></p> <p>10 <b>Sometimes it wasn't possible to have much.</b></p> <p>11 MR. BARON: I'm going to pass the witness</p> <p>12 for now.</p> <p>13 EXAMINATION</p> <p>14 BY MR. BRAZIL:</p> <p>15 Q. You want to take a quick break or are you okay?</p> <p>16 <b>A. No, I'm fine.</b></p> <p>17 Q. All right. I'm going to jump around to save</p> <p>18 time. You've been here a long time, we've all been here</p> <p>19 a long time. So if I lose you along the way, just say</p> <p>20 stop, back up, slow down, okay?</p> <p>21 <b>A. Okay.</b></p> <p>22 Q. What is your understanding in your position as</p> <p>23 to the definition of provisional ballot? How do you</p> <p>24 understand that in your position as director of</p> <p>25 elections?</p>	<p style="text-align: right;">239</p> <p>1 Q. That's six days after that?</p> <p>2 <b>A. That's right.</b></p> <p>3 Q. Okay. And in what instances can they cure that</p> <p>4 provisional ballot in those six days?</p> <p>5 <b>A. If the reason for the provisional ballot was</b></p> <p>6 <b>some form of failure to present an acceptable form of</b></p> <p>7 <b>identification, that's a curable thing.</b></p> <p>8 Q. And they would have to bring the same type of</p> <p>9 photo ID within that six-day period that they would on</p> <p>10 election day, is that correct, to cure that?</p> <p>11 <b>A. I'm not sure I understand that question.</b></p> <p>12 Q. Well, let me ask it this way. Is there</p> <p>13 anything different they need to bring within that six-day</p> <p>14 period?</p> <p>15 <b>A. I still don't know if I understand the</b></p> <p>16 <b>question. Let me try. If --</b></p> <p>17 Q. Tell me how they cure. Let me make it simple.</p> <p>18 <b>A. Right. It depends upon what the problem was,</b></p> <p>19 <b>but if the problem was that their picture was completely</b></p> <p>20 <b>different because they've had some sort of transgender</b></p> <p>21 <b>operation, they can bring a doctor note and say, this is</b></p> <p>22 <b>the reason my picture didn't match. We've got the things</b></p> <p>23 <b>that they can do to cure in 81.71. So if -- if it was a</b></p> <p>24 <b>name issue, they can present a marriage license to show</b></p> <p>25 <b>that their name has changed. Hopefully that won't happen</b></p>
<p style="text-align: right;">238</p> <p>1 <b>A. A provisional ballot is something that a voter</b></p> <p>2 <b>casts because there's some issue that prevents them from</b></p> <p>3 <b>casting a regular ballot.</b></p> <p>4 Q. And in order to cure that vote on the</p> <p>5 provisional ballot they have to do what?</p> <p>6 <b>A. Well, not all provisional ballots can be cured,</b></p> <p>7 <b>so I don't know -- if you're talking about specifically</b></p> <p>8 <b>ID provisional ballots, it depends upon the reason why</b></p> <p>9 <b>the ID provisional ballot was -- why the voter had to</b></p> <p>10 <b>vote that way. So if it's because they didn't have an ID</b></p> <p>11 <b>at all, then they need to bring an acceptable form of</b></p> <p>12 <b>photo ID. If it's because they were expired, then they</b></p> <p>13 <b>need to renew their form of photo ID. So I don't know --</b></p> <p>14 <b>I don't know how to answer that question.</b></p> <p>15 Q. Which of the categories can be cured in the</p> <p>16 six-day period? Let me ask it that way.</p> <p>17 <b>A. Well, it's not a six-day period.</b></p> <p>18 Q. Okay.</p> <p>19 <b>A. It's until six days after the election, so if</b></p> <p>20 <b>somebody votes the first day of early voting they've got</b></p> <p>21 <b>substantially more than six days to cure it. They've got</b></p> <p>22 <b>until --</b></p> <p>23 Q. Let's just assume in a normal election on</p> <p>24 election day.</p> <p>25 <b>A. Okay.</b></p>	<p style="text-align: right;">240</p> <p>1 because that should be a substantially similar name. But</p> <p>2 they can also -- if they've changed their name from,</p> <p>3 let's say, Keith Ingram to Squirrel Period, then they can</p> <p>4 show the court order changing their name to</p> <p>5 Squirrel Period and they'll be allowed to vote. They can</p> <p>6 bring a letter from a doctor saying that they're</p> <p>7 undergoing transgender operations. They can also -- if</p> <p>8 they don't have any of these and they don't have -- and</p> <p>9 they haven't renewed their driver license or whatever,</p> <p>10 they can sign an affidavit at the voter registrar's</p> <p>11 office that says they're the same person on the official</p> <p>12 list of registered voters.</p> <p>13 Q. And who is the person that has the authority to</p> <p>14 make that determination within that six-day period?</p> <p>15 <b>A. The voter --</b></p> <p>16 Q. Is it only the voter registrar or is there</p> <p>17 someone else?</p> <p>18 <b>A. Well, the voter registrar is the one that the</b></p> <p>19 <b>voter will interact with during the six-day period, the</b></p> <p>20 <b>voter registrar or one of their employees in the office,</b></p> <p>21 <b>so it could be a deputy voter registrar, and then the</b></p> <p>22 <b>early voting ballot board will make the final decision on</b></p> <p>23 <b>the ballot.</b></p> <p>24 Q. Will they get a recommendation from the</p> <p>25 registrar?</p>

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<p>1     <b>A. They will.</b></p> <p>2     Q. And then they will make the ultimate decision 3 on whether or not to count that vote?</p> <p>4     <b>A. That's right.</b></p> <p>5     Q. Now, is there any -- and you may have answered 6 this. Is there any analysis or any procedure for the 7 Secretary of State's Office after an election to gather 8 in a central location information from all the 254 9 counties on the individual problems with provisional 10 ballots or the provisional ballots themselves?</p> <p>11    <b>A. No.</b></p> <p>12    Q. So just so that I'm clear, there's no database 13 that the Secretary of State's Office has or generates 14 after an election to say, okay, we had this many 15 provisional ballots statewide because of A, B, C?</p> <p>16    <b>A. No.</b></p> <p>17    Q. Has there ever been a suggestion that the 18 Secretary of State's Office do that type of tracking or 19 recording of provisional ballots?</p> <p>20    <b>A. I don't know. You know, there's a -- there's 21 a bit of an issue with that sort of thing because of 22 secrecy of the ballot. In some counties there aren't 23 very many provisional ballots and the counties -- you 24 know, we -- we give them the opportunity to list 25 provisional ballots accepted in their voter history</b></p>	<p>1     Q. So the next time that information would exist 2 would be at the end of '14?</p> <p>3     <b>A. Right. And the EAC will probably have it from 4 us -- I don't know -- by February or early March of 2015.</b></p> <p>5     Q. And what under SB 14 is the reporting 6 requirements for the county with regard to provisional 7 ballots? Is there any reporting requirement?</p> <p>8     <b>A. No, not that I'm aware of.</b></p> <p>9     Q. So there's no aspect of SB 14 where the county 10 has to, after a general election or after any election, 11 report to the Secretary of State provisional ballots or 12 problems with provisional ballots?</p> <p>13    <b>A. That's right.</b></p> <p>14    Q. Now, the affidavits that can be completed, for 15 example, a natural disaster affidavit, I think there's 16 one for a religious objection to having your photograph 17 taken, how are those handled? Are those handled on 18 election day by the election officials or are they 19 handled as a provisional ballot after the election?</p> <p>20    <b>A. That's part of the cure process for a 21 provisional ballot based on ID.</b></p> <p>22    Q. And same question with regard to those 23 affidavits. Is there any compilation by the Secretary of 24 State's Office or any analyzation of that or any database 25 created as a result of those?</p>
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<p>1 report that's required by the legislature, and some of 2 them don't do it that way, they'll do it as a regular 3 election day vote or an early vote because they don't 4 want -- there's only one or two ballots and they don't 5 want to compromise the secrecy of the ballot. So I don't 6 know if anybody has ever suggested that the Secretary of 7 State gather this information regarding provisional 8 ballots after an election, but if they did I can imagine 9 a situation where some counties, especially smaller 10 counties, would express concerns with that and would want 11 to make sure that there were adequate protections in 12 place regarding the voters and the secrecy of their 13 ballot. There is a thing that happens at the end of 14 every even-numbered year called the Election Assistance 15 Commission Survey, and the federal voting assistance 16 program also does a survey -- this year they're going to 17 be combined for the first time -- and a lot of the 18 questions with regard to provisional ballots are included 19 in that survey. So there is general information 20 regarding provisional ballots that were done during early 21 voting, that were done on election day and that were 22 rejected and that were accepted. There is a database 23 with regard to globally, but that's only in even-numbered 24 years and it's only at the end of the year with the EAC 25 survey.</p>	<p>1     <b>A. No.</b></p> <p>2     Q. So you could not tell us in your position how 3 many people filed an affidavit, for example, with a 4 religious objection?</p> <p>5     <b>A. That's right. Not unless I ask all the 6 counties.</b></p> <p>7     Q. I'm sorry?</p> <p>8     <b>A. Not unless I ask all the counties.</b></p> <p>9     Q. Now, just so that I'll understand a couple of 10 the databases -- for example, the DPS has a database that 11 you spoke of earlier, correct?</p> <p>12    <b>A. Yes.</b></p> <p>13    Q. And is there a separate CHL database as well?</p> <p>14    <b>A. I don't know.</b></p> <p>15    Q. Do you know whether or not the DPS database 16 includes the CHLs? And you know what I mean by CHL, 17 right?</p> <p>18    <b>A. Sure, concealed handgun license. But what I 19 don't know is if DPS has a database with those combined. 20 We don't have access to a database with those combined.</b></p> <p>21    Q. Okay. And the TEAM is a database of what?</p> <p>22    <b>A. Registered voters.</b></p> <p>23    Q. That is maintained by the Secretary of State?</p> <p>24    <b>A. That's right.</b></p> <p>25    Q. Are there any other databases that we haven't</p>

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<p style="text-align: right;">245</p> <p>1 spoke of? We've got TEAM, we've got DPS, maybe CHL. Is there any other database maintained by any other state agency that we haven't spoken about?</p> <p>4       <b>A. I'm sure there are lots of databases from lots of state agencies. I don't know what --</b></p> <p>6       Q. For registered voters.</p> <p>7       <b>A. Okay. We have -- we have maintained within our system a list of all of the deceased persons from the Bureau of Vital Statistics, so it's not directly registered voters, but it is the complete list, and so when somebody registers to vote their application is checked against deceased persons. So we have that database that people are checked against.</b></p> <p>14      Q. And what was the database that these on-line counties can access that you spoke of earlier? You said almost all but 20 or 30 of the counties were on-line.</p> <p>17      What did you mean by that?</p> <p>18      <b>A. That means that they interface with TEAM in realtime, so if they add a voter to TEAM it's added right then. If an off-line county were to add a voter as a registered voter it will be batch processed overnight, and so that voter will show up in TEAM the next day.</b></p> <p>23      Q. Is there any other database that's available to the counties from any source, whether it be DPS or Secretary of State or a third-party vendor, that counties</p>	<p style="text-align: right;">247</p> <p>1       <b>A. Well, previously under -- under TVRS -- before TEAM, the Texas Voter Registration System, TVRS, was the electronic version that wasn't HAVA compliant, but it existed before HAVA -- counties were charged a participation fee.</b></p> <p>6       Q. You mentioned VOTEC earlier. What is that entity, VOTEC?</p> <p>8       <b>A. I don't know what all they do. One of the things that I do know they do is they provide voter registration services to some off-line counties in Texas.</b></p> <p>11      Q. What exactly services, if you know, do they offer?</p> <p>13      <b>A. I don't -- I don't know what's on their menu of options, but they do voter registration and election management for those -- for those counties, and I don't know if there's a sliding scale of different options that they could elect to have or not. I just -- I don't know.</b></p> <p>18      Q. Do you know how -- do they interface at all with the Secretary of State's Office?</p> <p>20      <b>A. Sure, every night.</b></p> <p>21      Q. So they have access to TEAM as well?</p> <p>22      <b>A. They do. And every off-line county vendor or every vendor that wants to provide voter registration services to counties off of TEAM has to be certified by the Secretary of State, and our certification process is</b></p>
<p style="text-align: right;">246</p> <p>1 could utilize in updating their voter registration rolls or anything of that sort?</p> <p>3       <b>A. I don't know. You know, I don't know what they could use. I've heard that some use public data for list maintenance purposes, especially with regard to investigating weak matches that we send the counties. There's a possibility that counties could subscribe to national change of address. I don't know if any of them do. So I don't know if there's something out there that they could use.</b></p> <p>11      Q. Is there any database maintained by the Secretary of State's Office or DPS that charges the individual counties for usage? Is there a charge to the counties to access TEAM or any of the databases the Secretary of State's Office may have?</p> <p>16      <b>A. TEAM itself, since 2007, since it's been in place, has not charged the counties either off-line or on-line. We do have statutory authority under Chapter 18 of the Election Code to make contracts with the counties for their participation in electronic voter registration database. We haven't used that authority since TEAM has been in place because it's been well funded by the federal government under HAVA, so there may come a time in the future whenever we'll have to change that policy.</b></p> <p>25      Q. But as of today, no?</p>	<p style="text-align: right;">248</p> <p>1       <b>to ensure that we get accurate data from them whenever they submit data to us, so we put them through some tests.</b></p> <p>4       Q. So the county would provide that information to a company like VOTEC and then they would provide that to the Secretary of State's Office?</p> <p>7       <b>A. Well, I don't know if they --</b></p> <p>8       Q. What information were you referring to? Let me ask that question.</p> <p>10      <b>A. Well, anything that happens with regard to a person who registers to vote. So from the application getting entered into the system as an application, that will then come to TEAM. TEAM overnight will do a live check process to make sure that this voter has correctly identified themselves, and then that information will be passed back to the county the next night, so then if anything ever happens with regard to that voter, if they move or change their name or if their voter registration certificate bounces from their address, they'll be put in suspense. So any activity with regard to that voter happens at the local level on the voter registration system of the off-line vendor. That's the direct interface that the VR office will have in that county, and that information will then be transmitted to TEAM in a batch process overnight.</b></p>

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<p style="text-align: right;">249</p> <p>1       Now, if we get a deceased voter or a felon    2       or some sort of notification with regard to one of the    3       off-line county voters, then that will be sent to the    4       county overnight as a task for them to work, so they'll    5       have to work their task list and make sure their task    6       list is kept current. If a county -- an off-line county    7       doesn't interface with TEAM regularly, if they skip    8       several nights, then we -- we will chop off, cut off    9       access to their Chapter 19 voter registration money until    10      they submit a batch process. So we have a mechanism for    11      making sure that the counties stay regular in their    12      interface with TEAM.</p> <p>13      Q. Would it be only the off-line counties that    14      would utilize an outside vendor or can they use both TEAM    15      and an outside vendor?</p> <p>16      A. I can't think of a situation -- I mean, there    17      are all kinds of vendors in the election world. So they    18      could have a poll book vendor and be on TEAM. They could    19      have some sort of -- I don't know -- list maintenance,    20      letter generating. They could have all kinds of vendors    21      that would use TEAM's information, so I don't know    22      exactly how to answer that question.</p> <p>23      Q. Let me go to a different area now. Has there    24      ever been an instance where the Secretary of State would    25      send to the individual voters -- you talked about this</p>	<p style="text-align: right;">251</p> <p>1       A. Sure.</p> <p>2       Q. How would the individual counties know the    3       Secretary of State's Office had this list of 700,000 or    4       800,000 registered voters who may or may not have correct    5       ID?</p> <p>6       A. I don't know how anybody knows anything.</p> <p>7       That's -- that's a hard question to answer.</p> <p>8       Q. Well, I see e-mail blasts that may go out to    9       the county -- county election officials from your office,    10      from the Secretary of State's Office. Was that ever done    11      to say, okay, we have this match, we have eight or --    12      700,000 or 800,000 registered voters who may not have the    13      correct ID, if you would like those in your county    14      request it?</p> <p>15      A. I don't think we ever sent a mass e-mail on    16      that. We -- we do talk about it regularly with counties    17      and they talk amongst themselves. The Texas Association    18      of Counties has a list serve, and so a lot of the things    19      that one county's doing with regard to a process they    20      share with each other on their list serve. And so I    21      don't know if we've ever sent an e-mail out on that    22      particular point, but we have talked about it at our    23      seminars and I'm sure they've talked about it amongst    24      themselves. And there are some counties who've received    25      the DPS database themselves and done the matching</p>
<p style="text-align: right;">250</p> <p>1       700,000 or 800,000 people that may or may not have a    2       photo ID. Ever an occasion where the Secretary of    3       State's Office itself would send out a letter to those    4       potential voters or is that left up to the individual    5       counties?</p> <p>6       A. Well, as I mentioned to Ms. Westfall, every    7       single registered voter in the state gets a card every    8       two years, and for the last two cycles of that process on    9       the card has been a list of identification requirements    10      necessary to vote.</p> <p>11      Q. I'm talking about just those that you have    12      found through your matching, the Secretary of State's    13      Office found through their matching that may not have the    14      correct ID. Did they get a separate letter?</p> <p>15      A. They did not get a separate letter from the    16      Secretary of State's Office. I don't know if they    17      received one from their county or not.</p> <p>18      Q. Was that list sent to the individual counties    19      so they could make that determination?</p> <p>20      A. The counties that asked for it, yes.</p> <p>21      Q. And would those -- would it be automatically    22      available to those that are on-line?</p> <p>23      A. No.</p> <p>24      Q. That would be a separate list or a separate    25      request would have to be made by the counties?</p>	<p style="text-align: right;">252</p> <p>1       themselves. So it's up to the county how they want to do    2       that.</p> <p>3       Q. So a county could take their registered voter    4       database and match it with DPS --</p> <p>5       A. Sure.</p> <p>6       Q. -- if they wanted to?</p> <p>7       A. They can.</p> <p>8       Q. The seminars that you have spoken of during    9       your deposition, are those where county officials can log    10      on on-line? How is that conducted? How would somebody    11      in Harris County or Galveston County know that you're    12      going to conduct a seminar, for example?</p> <p>13      A. Well, it's an annual event and it's a live    14      event that we have here in Austin, and so the seminars --    15      the official election law seminars, we will have one    16      every year for county election officials, we will have    17      one every year for city, school, and other political    18      subdivisions, and we'll have one every other year for    19      political county chairs, county party chairs. So those    20      are -- those are set, and it is a -- it is a much    21      anticipated event when we post the dates of those    22      seminars.</p> <p>23      Q. And that's a live seminar?</p> <p>24      A. That's a live seminar.</p> <p>25      Q. Do you ever do a Skype type seminar for county</p>

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<p style="text-align: right;">253</p> <p>1 election officials?</p> <p>2     <b>A. We do. We've had -- we've had -- our voter</b></p> <p>3 <b>registration section has done webinars monthly. They</b></p> <p>4 <b>have drafted what they call mini manuals with regard to</b></p> <p>5 <b>the topic that's going to be presented at next month's</b></p> <p>6 <b>webinar, post that mini manual to the TEAM communication</b></p> <p>7 <b>web page so that counties who want to participate in the</b></p> <p>8 <b>webinar that month can read the materials ahead of time</b></p> <p>9 <b>and be prepared for the webinar, and we've had those</b></p> <p>10 <b>monthly for, I want to say -- if it's not all of 2013,</b></p> <p>11 <b>it's almost all of 2013. And we have them every month,</b></p> <p>12 <b>so there's a topic every month, and it's not just voter</b></p> <p>13 <b>registration. Now we've started branching out into some</b></p> <p>14 <b>election related webinars, specifically the legal team</b></p> <p>15 <b>was involved in one for volunteer deputy registrars. So</b></p> <p>16 <b>yeah, webinars are a tool in our arsenal.</b></p> <p>17     <b>The other thing that we do is regional</b></p> <p>18 <b>county election officials have meetings -- some of them</b></p> <p>19 <b>do it monthly, some of them do it bimonthly, some of them</b></p> <p>20 <b>do it quarterly -- and they will invite us to come speak</b></p> <p>21 <b>on a topic and we will do that. The other thing is the</b></p> <p>22 <b>election administrators in Texas have their own</b></p> <p>23 <b>association, and they get together once a year, usually</b></p> <p>24 <b>in January, and they invite us to speak at their meeting</b></p> <p>25 <b>as well.</b></p>	<p style="text-align: right;">255</p> <p>1 anything specifically -- rather than receive complaints,</p> <p>2 did you do anything affirmatively to determine how things</p> <p>3 could be done better or how they could be more efficient</p> <p>4 by doing focus groups or just randomly calling election</p> <p>5 officials, anything of that sort?</p> <p>6     <b>A. So you're talking about voters, surveying</b></p> <p>7 <b>voters?</b></p> <p>8     Q. No, I'm talking about the election officials,</p> <p>9 surveying how things went in the November 2013 election,</p> <p>10 how we could improve what we're doing, what problems you</p> <p>11 had. Was there any survey or follow-up or focus group</p> <p>12 done by the Secretary of State's Office?</p> <p>13     <b>A. I wouldn't say that there was a survey or a</b></p> <p>14 <b>focus group. We do talk. We talk all the time, and</b></p> <p>15 <b>obviously that's a question on our minds, how did it go,</b></p> <p>16 <b>what needs to be improved, what was -- what was -- what</b></p> <p>17 <b>needs some tweaking. So that -- that conversation occurs</b></p> <p>18 <b>all the time. It -- it occurs in person. You know, we</b></p> <p>19 <b>had a Conference of Urban Counties meeting and I went to</b></p> <p>20 <b>it, and that was the hot topic, how did -- how did voter</b></p> <p>21 <b>ID go for the November election. And so all of the folks</b></p> <p>22 <b>there I talked to one-on-one. So yes, this -- this is --</b></p> <p>23 <b>there's not any official formal process, but like I was</b></p> <p>24 <b>explaining, there is a very real and active feedback</b></p> <p>25 <b>loop.</b></p>
<p style="text-align: right;">254</p> <p>1     Q. These webinars, are they recorded where someone</p> <p>2 could log on a few days later and watch the webinar</p> <p>3 again?</p> <p>4     <b>A. Not by us.</b></p> <p>5     Q. This matching that you spoke of earlier today,</p> <p>6 the 700,000 or 800,000 registered voters who may lack</p> <p>7 some form of identification, is that broken down by race</p> <p>8 or geographic location? How specific is that list</p> <p>9 category-wise?</p> <p>10     <b>A. Texas does not keep any racial information or</b></p> <p>11 <b>ethnicity information with regard to voters, so there's</b></p> <p>12 <b>no indicator anywhere in our database about anybody's</b></p> <p>13 <b>race. It is categorized by -- there's -- like I told</b></p> <p>14 <b>Ms. Westfall, there's actually two separate lists;</b></p> <p>15 <b>there's one that has the county and the ZIP codes within</b></p> <p>16 <b>that county and the number of non-matches by ZIP code and</b></p> <p>17 <b>then there's one that has that information plus the</b></p> <p>18 <b>voter's name and address.</b></p> <p>19     Q. Was any survey or focus group or follow-up</p> <p>20 specifically done by the Secretary of State's Office</p> <p>21 after, for example, the November 2013 election? You know</p> <p>22 what I mean by that?</p> <p>23     <b>A. No.</b></p> <p>24     Q. I mean, just to determine how the election went</p> <p>25 forward, what the problems were. I mean, did you do</p>	<p style="text-align: right;">256</p> <p>1     Q. But just so I'll understand your answer,</p> <p>2 there's no official follow-up or survey that's completed</p> <p>3 by your office?</p> <p>4     <b>A. There's not any formal process for gathering</b></p> <p>5 <b>information in a systematic way. There is very much a</b></p> <p>6 <b>very real and very alive feedback loop that is constant.</b></p> <p>7     Q. Has there been any -- has there been any</p> <p>8 investigation -- and maybe that's not the right word --</p> <p>9 or review by the Secretary of State's Office into things</p> <p>10 like same -- same day voter registration or putting --</p> <p>11 you know, making the DPS office, you know, a place where</p> <p>12 you can register to vote, get your ID, all of that?</p> <p>13     <b>A. The legislature introduces bills, you know,</b></p> <p>14 <b>every other year, and I believe that on-line voter</b></p> <p>15 <b>registration has been a bill that's been introduced, and</b></p> <p>16 <b>as such it's a bill that we would have analyzed and we</b></p> <p>17 <b>would have done a fiscal note for, so --</b></p> <p>18     Q. You would have done a what?</p> <p>19     <b>A. Fiscal note, how much will it cost the state if</b></p> <p>20 <b>we implement same day voter registration. So if that's</b></p> <p>21 <b>what you mean by analysis of same day voter registration,</b></p> <p>22 <b>we've done that. With regard to the DPS being an ID and</b></p> <p>23 <b>voter registration shop, that's what they do now under</b></p> <p>24 <b>the 1993 National Voter Registration Act.</b></p> <p>25     Q. The analysis for the same day voter</p>

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<p style="text-align: right;">257</p> <p>1 registration, where would we find that in the document 2 production? Would that be on-line or do you know? 3 <b>A. Yeah, that would be -- I don't know where stuff</b> 4 <b>goes related to a legislative session, but that would be</b> 5 <b>associated with whatever particular bill had same day</b> 6 <b>voter registration in it, and the legislature would keep</b> 7 <b>those records in the Legislative Reference Library or --</b> 8 <b>I don't know where fiscal notes go after a session.</b></p> <p>9 Q. But the fiscal analysis would have come from 10 your office in that regard?</p> <p>11 <b>A. Part of it probably.</b></p> <p>12 Q. Has there been any request by your office for 13 a fiscal analysis of, say, waiving all the fees for 14 indigent voters?</p> <p>15 <b>A. I don't understand that question.</b></p> <p>16 Q. I don't know how to rephrase it. There's been 17 some talk about waiving all of the fees for individuals 18 who cannot afford to get, for example, a birth 19 certificate or a driver license. Has your office ever 20 been asked to provide an analysis of the cost of doing 21 that, waiving those fees?</p> <p>22 <b>A. No. Whenever the Health and Human Services</b> 23 <b>issued their rule amendment saying that a birth</b> 24 <b>certificate for election identification certificate</b> 25 <b>purposes could be purchased for the statutory minimum fee</b></p>	<p style="text-align: right;">259</p> <p>1 budget, or was it all from HAVA? 2 <b>A. Well, we do things all the time to educate</b> 3 <b>counties that are within our budget. I believe the HAVA</b> 4 <b>designated money was specifically for a paid media public</b> 5 <b>relations campaign in addition to what we do within our</b> 6 <b>budget. So it's both, to answer your question.</b></p> <p>7 Q. But the HAVA money was specifically -- has to 8 be specifically used for a specific purpose, as I 9 understand that bill. Is that correct?</p> <p>10 <b>A. That's right.</b></p> <p>11 Q. Okay. Has there been any analysis or has 12 anyone in the Secretary of State's Office analyzed 13 provisional ballots from, let's say, the general election 14 in 2008, general election in 2012, the November 2013 15 election? Has anybody analyzed whether provisional 16 ballots are going up or going down, anything of that 17 sort?</p> <p>18 <b>A. No, other than the EAC survey that I mentioned</b> 19 <b>before so you can compare the data across even-numbered</b> 20 <b>years. The EAC survey pertains to the general election</b> 21 <b>in those even-numbered years.</b></p> <p>22 Q. Other than the forms we have seen that have 23 been produced by your office, has there ever been a form 24 that was sent to the election officials as part of a 25 potential survey just for Secretary of State's feedback</p>
<p style="text-align: right;">258</p> <p>1 <b>of \$2 or \$3, whatever it is, we did hear from a lot of</b> 2 <b>county clerks who believed that a source of revenue was</b> 3 <b>being cut from them, but we did not do any analysis of</b> 4 <b>how much that was.</b></p> <p>5 Q. So there were some complaints about the loss of 6 revenue, but your office did not analyze how much that 7 would be?</p> <p>8 <b>A. No, sir.</b></p> <p>9 Q. Is there any other aspect of Senate Bill 14 or 10 one of the amendments where your office was asked to 11 perform some type of fiscal -- fiscal analysis that you 12 can think of?</p> <p>13 <b>A. I can't think of any. There -- you know, I</b> 14 <b>don't want to -- there was talk in the 2011 82nd</b> 15 <b>Legislative Session about voter education with regard to</b> 16 <b>ID requirements and there was a specific -- I don't know</b> 17 <b>what mechanism the legislature used, but they designated</b> 18 <b>\$2 million of the Help American Vote Act money for that</b> 19 <b>purpose, so there was that bit of fiscal piece to SB 14.</b></p> <p>20 Q. Somebody else is going to cover that area with 21 you in a few minutes.</p> <p>22 <b>A. Okay.</b></p> <p>23 Q. But as far as the budget from the Secretary of 24 State's Office for educational purposes for SB 14, was 25 that from your budget, meaning the Secretary of State's</p>	<p style="text-align: right;">260</p> <p>1 purposes, like tell us how we're doing, tell us what the 2 problems are, anything of that sort?</p> <p>3 <b>A. Well, currently we're doing our annual survey,</b> 4 <b>customer satisfaction survey, so that's at the bottom of</b> 5 <b>all of our outgoing e-mails now.</b></p> <p>6 Q. Okay. And how often does that occur?</p> <p>7 <b>A. It occurs one month every year. And it's for</b> 8 <b>all Secretary of State customers, not just elections</b> 9 <b>division.</b></p> <p>10 Q. Have there been any complaints from the 11 counties that they do not have enough staff to handle 12 some of the aspects of SB 14?</p> <p>13 <b>A. No. No, the -- the -- the concerns that have</b> 14 <b>been expressed have been with regard to a fear of</b> 15 <b>increased on -- increase on provisional voters, so we've</b> 16 <b>heard from some voter registrars who were concerned about</b> 17 <b>a potential increase in workload, but all of that was</b> 18 <b>before actual elections had taken place. We haven't</b> 19 <b>heard anything to that effect since the elections have</b> 20 <b>actually occurred.</b></p> <p>21 Q. Have any of the counties asked for extra 22 funding because of some aspect of SB 14, to your 23 knowledge?</p> <p>24 <b>A. I don't know. They would have asked their</b> 25 <b>county commissioners for funding, so I -- I just don't --</b></p>

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<p>1 <b>I haven't heard about it.</b></p> <p>2 Q. Would it ever come to the attention of the</p> <p>3 Secretary of State's Office through the county</p> <p>4 commissioners court or anybody that they needed extra</p> <p>5 funding or would it go to the legislature or some</p> <p>6 other --</p> <p>7 <b>A. Right. If -- if there was some sort of thing</b></p> <p>8 <b>that counties felt like they needed money for they'd go</b></p> <p>9 <b>to the legislature for it.</b></p> <p>10 Q. They wouldn't come to your office and there's</p> <p>11 no mechanism for them doing that under SB 14?</p> <p>12 <b>A. That's right.</b></p> <p>13 Q. The training of the election officials or the</p> <p>14 election judges or clerks, is that required by the</p> <p>15 Secretary of State's Office?</p> <p>16 <b>A. Well, it depends. All election poll workers</b></p> <p>17 <b>have to undergo training with regard to photo ID</b></p> <p>18 <b>requirements. County election officials are required to</b></p> <p>19 <b>train poll workers for county official election</b></p> <p>20 <b>elections. Primaries there's not a requirement for</b></p> <p>21 <b>general poll worker training and for any local entity</b></p> <p>22 <b>election there's not a requirement for poll worker</b></p> <p>23 <b>training. However, to the extent that the local entities</b></p> <p>24 <b>have an election run by the county, the county will offer</b></p> <p>25 <b>poll worker training, and like I said, all poll workers</b></p>	<p>1 funds were spent, how much was utilized on media, print,</p> <p>2 et cetera?</p> <p>3 <b>A. I'm ready to talk about that today.</b></p> <p>4 Q. Okay. I think that's somebody else's area.</p> <p>5 I don't want to step on anybody's toes and I don't want</p> <p>6 to re-plow --</p> <p>7 <b>A. I mean, and if there's a specific answer that</b></p> <p>8 <b>I can't answer, then probably she would be best, but --</b></p> <p>9 Q. Okay. Did your office do any research before</p> <p>10 the first election under SB 14 that came from other</p> <p>11 states? Did you do any outreach to other states who may</p> <p>12 have had a similar bill and had an election under that</p> <p>13 type of bill to get feedback before you came up with your</p> <p>14 forms, before you did the training, anything of that</p> <p>15 sort?</p> <p>16 <b>A. I am a member of the National Association of</b></p> <p>17 <b>State Election Directors, and yes, I have talked to</b></p> <p>18 <b>secretaries of state as well as election directors in</b></p> <p>19 <b>other states about their implementation of photo ID, what</b></p> <p>20 <b>they found that worked, what they found that didn't work,</b></p> <p>21 <b>you know, issues they ran into and how they overcame</b></p> <p>22 <b>them. Yeah, we've definitely had those kind of</b></p> <p>23 <b>conversations, not anything systematic or official.</b></p> <p>24 Q. Not any exchange of letters or documents,</p> <p>25 anything of that sort, all oral?</p>
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<p>1 <b>have to be trained with regard to photo ID requirements,</b></p> <p>2 <b>for primary, for local elections, for county elections</b></p> <p>3 <b>that -- that they're running for local entities.</b></p> <p>4 Q. And how is that monitored by your office or is</p> <p>5 it?</p> <p>6 <b>A. It's not.</b></p> <p>7 Q. So they just -- you just make sure that the</p> <p>8 counties know they're supposed to train the poll workers,</p> <p>9 but there's no way for you to know if they actually do</p> <p>10 that?</p> <p>11 <b>A. That's right. And for -- we have to inform the</b></p> <p>12 <b>political party chairs, and we did that at our seminar in</b></p> <p>13 <b>October of 2013, of their responsibility to train their</b></p> <p>14 <b>poll workers with regard to photo ID requirements. So</b></p> <p>15 <b>that is part of SB 14.</b></p> <p>16 Q. Who in your office, whether it be a division</p> <p>17 head or someone underneath you, was in charge of</p> <p>18 implementing the educational requirements to the public</p> <p>19 or the advertising to the public of the new requirements</p> <p>20 of SB 14?</p> <p>21 <b>A. The paid media piece and the Secretary of</b></p> <p>22 <b>State's election official visits would have been</b></p> <p>23 <b>coordinated with our communications director,</b></p> <p>24 <b>Alicia Pierce.</b></p> <p>25 Q. Would she be the best person to address how the</p>	<p>1 <b>A. I don't know if I've received any documents.</b></p> <p>2 I'm pretty sure that Tennessee sent me some examples of</p> <p>3 their public communications. I don't know if it was</p> <p>4 links back to their website or what, but definitely I got</p> <p>5 some information from Tennessee.</p> <p>6 Q. Any other states that you can recall?</p> <p>7 <b>A. I've talked to Marcy over in South Carolina.</b></p> <p>8 She's the state election director. I've talked to the</p> <p>9 election officials in Alabama. They don't usually come</p> <p>10 to our meetings, but I've -- I've talked to them and then</p> <p>11 I've talked to Mark Goins and Tre Hargett in Tennessee.</p> <p>12 I also talked to Trent -- I can't think of his last name.</p> <p>13 He's the democratic elections director for Indiana -- and</p> <p>14 Brad King, the Republican in -- in Indiana. I've talked</p> <p>15 to both of them. Trent Deckard.</p> <p>16 Q. Did any of those other states or individuals</p> <p>17 provide you with any information that you utilized or</p> <p>18 relied upon?</p> <p>19 <b>A. I can't think of anything in writing. I did</b></p> <p>20 <b>get a letter that Indiana received from the Election</b></p> <p>21 <b>Assistance Commission about using HAVA money for</b></p> <p>22 <b>education purposes.</b></p> <p>23 Q. And who in your office is responsible for</p> <p>24 requesting HAVA money?</p> <p>25 <b>A. The HAVA money was -- was sent pretty much as</b></p>

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<p style="text-align: right;">265</p> <p>1 a one-time payment, so we've had the HAVA money in the 2 comptroller's accounts since whenever it arrived.</p> <p>3 Q. Was it there after you took your position or 4 was it there before?</p> <p>5 A. It was given to us by the federal government 6 before I arrived.</p> <p>7 Q. That amount of 3 -- 2 million? 3 million? 8 I don't remember.</p> <p>9 A. No, the total amount of 203.7 million.</p> <p>10 Q. But designated for the educational or the 11 advertising portion was how much?</p> <p>12 A. I don't know. We've got -- we've got a state 13 plan for usage of the HAVA money that we had to submit to 14 the Election Assistance Commission before they would 15 release the money, and so there -- there is an Election 16 Improvement Fund that would have contained education as 17 one of the strategies within that fund, and I don't know 18 how much was originally put into that strategy, but there 19 are variances within each element of the state plan, so 20 it can be a range of dollars that can be spent, and we 21 are well within our state plan range.</p> <p>22 MR. BRAZIL: Thank you. I'll pass the 23 witness.</p> <p>24 MR. BARON: I've got a few quick 25 follow-ups.</p>	<p style="text-align: right;">267</p> <p>1 will help counties contact potentially impacted voters, 2 right?</p> <p>3 A. That's right.</p> <p>4 Q. What are you talking about there? Is that 5 substantially similar or is that the general 6 informational program that you talked about?</p> <p>7 A. It's -- it's -- it's all of that, yes, and it's 8 people who need IDs, where they can get IDs. So part of 9 our help to the counties is to have our statewide 10 education program and our election visits from the 11 Secretary of State so that we can get earned media as 12 well as paid media, and so we -- we made a commitment to 13 the counties to consistently direct voters to 14 VoteTexas.Gov and Am I Registered because voters need to 15 look themselves up to make sure their names will match 16 and change it if they want to. So that's -- that's our 17 commitment here. And we also -- when we say contact us 18 if you need more information, that's where we would have 19 talked about, you know, if you need information with 20 regard to voters in your county who don't match with an ID, then we've got -- we've got a list from last summer.</p> <p>22 Q. But in terms of funding, that doesn't refer to 23 any assistance with funding?</p> <p>24 A. No, it doesn't refer to any assistance with 25 funding.</p>
<p style="text-align: right;">266</p> <p>1 FURTHER EXAMINATION</p> <p>2 BY MR. BARON:</p> <p>3 Q. When I was talking to you earlier we talked 4 about the training materials and the PowerPoints, so I 5 went on-line finally and tracked them down. I see two 6 here, and one is the Intro to Photo ID that's dated 7 February 6th of 2014.</p> <p>8 A. Okay.</p> <p>9 Q. Are you familiar -- I mean, I'll show it to 10 you. I mean, they're a little hard to print out, but you 11 can scroll up to the top of it. That one's dated 12 February 6th of 2014.</p> <p>13 A. Okay.</p> <p>14 Q. And so there's just two slides there I wanted 15 to ask you about. Slide 6 --</p> <p>16 A. I don't know what speech this was in regard to</p> <p>17 Q. That's fine. They're on your website. I'm not 18 trying to play gotcha here. I'm just going to ask you 19 a few questions.</p> <p>20 MR. BARON: Hey, if they turn out to be 21 gotcha answers I'll be surprised. But, you know, this 22 guy's a pretty good witness, so he'll have an 23 explanation, I'm sure.</p> <p>24 A. Right. Slide 6. I've got it.</p> <p>25 Q. Okay. So that one says: Secretary of State</p>	<p style="text-align: right;">268</p> <p>1 Q. Counties are on their own in terms of costs?</p> <p>2 A. Right. Now, it -- it -- if -- they have 3 available to them state money under Chapter 19 to assist 4 with voter registration, and so conceivably they could 5 have some sort of voter registration campaign with regard 6 to checking your names and stuff and they could ask for 7 a Chapter 19 reimbursement, and we would, of course, 8 evaluate those claims.</p> <p>9 Q. Go to Slide 17, Totality of Circumstances.</p> <p>10 A. Uh-huh.</p> <p>11 Q. And you see that, right?</p> <p>12 A. Sure.</p> <p>13 Q. And we talked about totality of circumstances.</p> <p>14 And all it says there is to remember to compare all info.</p> <p>15 A. Right.</p> <p>16 Q. Doesn't include -- and you can look through the 17 whole thing. I mean, I have. It doesn't include that 18 discussion about only using the information to the 19 benefit and not to the detriment of the voter; is that 20 correct?</p> <p>21 A. Right. The slide doesn't, but the speech 22 behind the slide sure does --</p> <p>23 Q. Fair enough.</p> <p>24 A. -- every time it's given.</p> <p>25 Q. Okay.</p>

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<p>1       <b>A. And I've given the speech a lot of times.</b></p> <p>2       Q. I'm not arguing with you, I'm just going with</p> <p>3       what's --</p> <p>4       <b>A. You want to hear it?</b></p> <p>5       Q. I'm sure before this case is over we'll</p> <p>6       probably get to, but --</p> <p>7       <b>A. Absolutely.</b></p> <p>8       Q. And I'm going to go to one more -- one more</p> <p>9       presentation real quick.</p> <p>10       MR. KEISTER: Counsel, is there some way</p> <p>11      to identify that for the record?</p> <p>12       MR. BARON: Yes, this is the -- the</p> <p>13      PowerPoint, and it's titled Intro to Photo ID, and it's</p> <p>14      dated February 6, 2014, and it is contained on the Texas</p> <p>15      Secretary of State website under the annual seminar</p> <p>16      presentation files.</p> <p>17       MR. KEISTER: Okay. Thank you.</p> <p>18       MR. BARON: And they're hard to print out.</p> <p>19       You have to do some fancy thing about saving them and all</p> <p>20      that.</p> <p>21       <b>A. And that's why I think that February 6th date</b></p> <p>22      <b>is not correct.</b></p> <p>23       Q. And I'm not arguing with you, but -- okay. The</p> <p>24      other one I want to talk to you about very briefly is the</p> <p>25      one that's titled How to Handle Substantially Similar</p>	<p>1       opinion?</p> <p>2       <b>A. At the polling place?</b></p> <p>3       Q. Yes, sir.</p> <p>4       <b>A. No.</b></p> <p>5       Q. Okay. What about -- so they can't do that to</p> <p>6       show that the name should be considered substantially</p> <p>7       similar?</p> <p>8       <b>A. No.</b></p> <p>9       Q. Okay. And --</p> <p>10       <b>A. Not at the polling place.</b></p> <p>11       Q. Not at the polling --</p> <p>12       <b>A. That's a matter for the voter registrar during</b></p> <p>13      <b>the cure period.</b></p> <p>14       Q. Only during the cure period?</p> <p>15       <b>A. That's right.</b></p> <p>16       Q. So during the cure period your position is,</p> <p>17      I could show up with whatever, my utility bill, some --</p> <p>18      some additional documentation?</p> <p>19       <b>A. No. You could show up with a marriage license,</b></p> <p>20      <b>court order, letter from a physician, or you can make an</b></p> <p>21      <b>affidavit.</b></p> <p>22       Q. Okay. Those four things that are listed in the</p> <p>23      statute and those things only. Okay. Has the Secretary</p> <p>24      of State, to your knowledge, done any searches for</p> <p>25      information on any of the individual plaintiffs in this</p>
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<p>1       Names, and that's actually dated August 12th of 2013.</p> <p>2       And I also want to go to the -- you can look at the whole</p> <p>3       thing if you want. I mean, I think this is where you</p> <p>4       have the totality of circumstances with the Lady Bird</p> <p>5       Johnson example on Slide 10, and then on Slide 11 again</p> <p>6       it says to use the info to assist in the determination</p> <p>7       without making it clear that the totality of</p> <p>8       circumstances analysis is only supposed to be used to the</p> <p>9       benefit of the voter, not to the detriment of the voter,</p> <p>10      correct?</p> <p>11       <b>A. Sure. It doesn't say it on the slide, but we</b></p> <p>12      <b>definitely say it in the speech.</b></p> <p>13       Q. A few quick questions. Were -- one more</p> <p>14      question on the counties. Were counties given lists of</p> <p>15      no-match voters for free or did they have to pay for</p> <p>16      that?</p> <p>17       <b>A. No, no, if they wanted it we'd give it to them.</b></p> <p>18       Q. But only if they requested it?</p> <p>19       <b>A. Sure.</b></p> <p>20       Q. Okay. Talking about curing -- I think you were</p> <p>21      testifying about that a little bit earlier.</p> <p>22       <b>A. Uh-huh.</b></p> <p>23       Q. Can voters, in the totality of circumstances</p> <p>24      analysis, show other non-SB 14 identification to assist</p> <p>25      in the totality of circumstances analysis, in your</p>	<p>1       case?</p> <p>2       <b>A. I don't know.</b></p> <p>3       Q. Okay.</p> <p>4       <b>A. I mean -- I don't know.</b></p> <p>5       Q. Has the Secretary of State requested any</p> <p>6       information searches from any other state agencies on any</p> <p>7       of the individual plaintiffs in this case?</p> <p>8       <b>A. We have not.</b></p> <p>9       Q. On the mobile units -- this is my last</p> <p>10      question. You talked about no fingerprinting equipment</p> <p>11      on those mobile units, right?</p> <p>12       <b>A. That's right.</b></p> <p>13       Q. Is there anything else that's not on those</p> <p>14      mobile units that the DPS uses when they issue EICs at</p> <p>15      DPS locations that you can think of?</p> <p>16       <b>A. I don't want you to be under the impression</b></p> <p>17      <b>that they collect IDs for EICs at DPS locations.</b></p> <p>18       Q. Well, if I'm --</p> <p>19       <b>A. So if you're under that impression I'm not</b></p> <p>20      <b>going to -- I'm not going to agree with that assumption</b></p> <p>21      <b>in light of that question.</b></p> <p>22       Q. I'm -- I'm confused then. What I'm saying is,</p> <p>23      is there any equipment --</p> <p>24       MR. BARON: Strike it. I'll rephrase it</p> <p>25      and maybe fix the problem.</p>

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<p>1 Q. Is there any other equipment not on the mobile    2 units that DPS uses in the EIC process at the DPS    3 offices?</p> <p>4 <b>A. Not that I'm aware of.</b></p> <p>5 MR. BARON: Okay. Thank you.</p> <p>6 MR. ROSENBERG: Want to take a break?</p> <p>7 MR. KEISTER: I'm ready to.</p> <p>8 (Recess from 3:49 p.m. to 4:03 p.m.)</p> <p>9 EXAMINATION</p> <p>10 BY MR. AGRAHARKAR:</p> <p>11 Q. Good afternoon, Mr. Ingram. My name is    12 Vishal Agraharkar and I represent Texas NAACP and MALC,    13 and I'll be asking you a few more questions today.</p> <p>14 <b>A. Okay.</b></p> <p>15 Q. At any time between January 1, 2011, to the    16 present has the Secretary of State analyzed or estimated    17 the total number of registered voters who are either    18 Anglo, African-American, Latino, or other?</p> <p>19 <b>A. What was the date range?</b></p> <p>20 Q. January 1, 2011 to the present.</p> <p>21 <b>A. There was a matching exercise that the    22 Department of Justice made us undergo, and I sent the    23 letter to them with the results of that exercise, I    24 believe January 12th or so of 2012, and every month we do    25 a report of the number of Hispanic surname voters by</b></p>	<p>1 <b>know that.</b></p> <p>2 Q. But if a voter came to the polls and said, my    3 driver license is suspended, there is currently -- is    4 your testimony that there is no rule or guidance as to    5 whether or not that is acceptable ID for voting?</p> <p>6 <b>A. That would be an acceptable form of ID.</b></p> <p>7 Q. That is an acceptable form of ID?</p> <p>8 <b>A. If it's not expired more than 60 days.</b></p> <p>9 Q. And has that been clearly communicated to    10 election officials in trainings or to voters in any other    11 way?</p> <p>12 <b>A. We have not discussed suspended driver's    13 licenses at all because a suspended driver license is not    14 something that a poll worker would have knowledge of.</b></p> <p>15 Q. Okay. So it is possible, then, that voters,    16 poll workers, and other election officials may believe    17 that a suspended license is not a valid ID for voting?</p> <p>18 MR. KEISTER: Objection, calls for    19 speculation.</p> <p>20 <b>A. I don't know if they would believe that or not.    21 It's not a category that has come up or would come up.</b></p> <p>22 Q. Have you in your public education or other    23 advertisements used the phrase current ID to describe the    24 types of driver's licenses that are acceptable for    25 voting?</p>
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<p>1 <b>household and by county.</b></p> <p>2 Q. Okay. And the first matching exercise that you    3 mentioned, was that just with respect to Hispanic    4 surnames or what was the -- what was the match?</p> <p>5 <b>A. The request by the Department of Justice in the    6 administrative preclearance process was to match with the    7 DPS data that contained race and ethnicity because the    8 previous matching that we had done was with our in-house    9 database and it did not contain any race or ethnicity    10 information. And so we did a separate matching process    11 with a more complete, in that regard, database from the    12 Department of Public Safety, and it carried with it its    13 own set of problems that I outlined in my letter to the    14 Department of Justice with those results.</b></p> <p>15 Q. Okay. And has the Secretary of State during    16 that time done anything else to attempt to determine the    17 racial demographics of registered voters?</p> <p>18 <b>A. No, sir.</b></p> <p>19 Q. Okay. Is a suspended driver license acceptable    20 for voting?</p> <p>21 <b>A. I don't know. I don't know how a poll worker    22 would know that a driver license is suspended. So if you    23 show up with a driver license and it's not expired you    24 can use it to vote. If it's suspended by the Department    25 of Public Safety, there's no way for a poll worker to</b></p>	<p>1 <b>A. I don't know if we've said current ID. What we    2 say is an ID that is not expired or is not expired more    3 than 60 days before the date it's presented.</b></p> <p>4 Q. Okay. And assuming that you use the phrase    5 current at times, is -- do you see room for confusion as    6 to whether a suspended driver license would meet that    7 definition?</p> <p>8 <b>A. I don't know if a suspended driver license    9 would be current or not. That's -- that's not the    10 phraseology the statute uses and that's not the    11 phraseology that we use in our training.</b></p> <p>12 <b>(Exhibit Nos. 28 through 30 marked)</b></p> <p>13 Q. Okay. I'd like to show you these marked    14 documents, Exhibit 28, Exhibit 29, and Exhibit 30.</p> <p>15 MR. AGRAHARKAR: I'm afraid I don't have    16 many copies of them.</p> <p>17 MR. ROSENBERG: Why don't you just    18 identify them for the record.</p> <p>19 MR. AGRAHARKAR: Exhibit 28 is titled,    20 Fall 2013 Campaign \$400,000 (all non-HAVA money); Exhibit    21 29 is titled, 2014 Voter Education Campaign Phase 1 -    22 about \$400,000 (HAVA); and Exhibit 30 is titled, 2014    23 Voter Education Campaign Phase II - about \$1.6 million    24 (HAVA).</p> <p>25 Q. Mr. Ingram, do you know what these documents</p>

<p style="text-align: right;">277</p> <p>1 are?</p> <p>2     <b>A. Yes.</b></p> <p>3     Q. What are they?</p> <p>4     <b>A. They are summary sheets that the director of</b>  <b>5     communications prepared for me to prepare for this</b>  <b>6     deposition.</b></p> <p>7     Q. Okay. So when were they produced? I'm sorry.</p> <p>8     When were they produced to us?</p> <p>9     <b>A. Today.</b></p> <p>10    Q. Today. And are there other documents with</p> <p>11    respect to the Voter Education Campaign that have not yet</p> <p>12    been produced to the plaintiffs?</p> <p>13        MR. KEISTER: Objection, vague.</p> <p>14    Q. Are there -- well, you may answer if you -- if</p> <p>15    you understand the question.</p> <p>16        <b>A. I don't know -- I don't know what's been</b>  <b>17    produced and what hasn't been produced.</b></p> <p>18    Q. Have you --</p> <p>19        <b>A. These didn't exist until late last week, and so</b>  <b>20    they couldn't have been produced.</b></p> <p>21    Q. Okay. And who made this?</p> <p>22        <b>A. Alicia Pierce, our communications director for</b>  <b>23    the Secretary of State's Office.</b></p> <p>24    Q. Okay. And is that true for Exhibit 28,</p> <p>25    Exhibit 29, and Exhibit 30?</p>	<p style="text-align: right;">279</p> <p>1     <b>of special extra money paid media campaign or effort, and</b>  <b>2     those are very real and they're very much a part of the</b>  <b>3     education of the public with regard to photo ID, and</b>  <b>4     this -- these summary sheets talk about the other piece</b>  <b>5     of it, which is the special event paid media, earned</b>  <b>6     media campaign with regard to voter education.</b></p> <p>7     Q. Okay. And I'm just trying to get some clarity</p> <p>8     with respect to the components of the education campaign</p> <p>9     that are not listed on here for 2013.</p> <p>10        <b>A. Sure.</b></p> <p>11    Q. You said that there was some education with</p> <p>12    counties and then there is a website. Is -- what did you</p> <p>13    mean by the education with the county officials?</p> <p>14        <b>A. Well, the county election officials are very,</b>  <b>15    very important in our relations with the public. You</b>  <b>16    know, we have to have the county election officials -- we</b>  <b>17    have to teach them what's new and how it's going to be</b>  <b>18    different and what's going to be required on the part of</b>  <b>19    their voters, and then they turn around and educate their</b>  <b>20    local communities. These local election administrator</b>  <b>21    folks, county clerks, tax assessor-collectors, and EAs</b>  <b>22    usually have very good working relations with their local</b>  <b>23    media. Their local media usually is very happy to do a</b>  <b>24    story, you know, about what it -- a public information</b>  <b>25    kind of story about voting and what's different and</b></p>
<p style="text-align: right;">278</p> <p>1     <b>A. Yes, sir.</b></p> <p>2     Q. And just looking at Exhibit 28, does this</p> <p>3     include all of the components of a -- of a voter</p> <p>4     education plan for 2013?</p> <p>5     A. Not exactly. This would -- this has the -- the</p> <p>6     paid media visit extra effort kind of stuff. There are</p> <p>7     other things that we do in our office for the counties as</p> <p>8     well as for the national voter registration agencies</p> <p>9     under Chapter 20 of the Election Code that are not</p> <p>10    included on this that would have been public outreach.</p> <p>11    So this is the media component of the public outreach</p> <p>12    that our director of communications would have directly</p> <p>13    oversaw. There is also an ongoing sort of voter</p> <p>14    education effort within the election division that we</p> <p>15    participate in with the counties and the national voter</p> <p>16    registration agencies.</p> <p>17    Q. Okay. So this is just the media component, but</p> <p>18    there's a separate education component; is that -- is</p> <p>19    that right?</p> <p>20        A. Right. There's -- the education of the public</p> <p>21    has, I would say, sort of two main ways that we do it.</p> <p>22    We do it on an ongoing basis through the counties and</p> <p>23    through our partners in voter registration as well as</p> <p>24    with the public and our -- our VoteTexas.Gov website.</p> <p>25    And so there's those kind of ongoing things that are not</p>	<p style="text-align: right;">280</p> <p>1     <b>what's coming up, so this is -- this is a good</b>  <b>2     opportunity for them to provide that information. So our</b>  <b>3     first line of defense is for our elections division to</b>  <b>4     interface with the county election officials so that they</b>  <b>5     are prepared. We -- we -- we do -- I don't know what you</b>  <b>6     call it. Collateral, I think, is the official media</b>  <b>7     relations term for handouts, posters, stuff like that for</b>  <b>8     the counties to use, and we give that to them from our</b>  <b>9     graphics department.</b></p> <p>10    Q. Okay. And that is separate from what is listed</p> <p>11    on here, which -- under the headings Paid Media, Earned</p> <p>12    Media, and Web Social Media?</p> <p>13        A. That's correct.</p> <p>14    Q. Okay. And then you mentioned the website,</p> <p>15    which you said is also separate from this. Are there any</p> <p>16    other components of your voter education campaign?</p> <p>17        A. Sure. We -- we also have partner agencies</p> <p>18    under Chapter 20 in the National Voter Registration Act</p> <p>19    that assist with voter registration, and they have -- in</p> <p>20    their offices where benefit recipients go to interface</p> <p>21    with them about benefits they have posters from the</p> <p>22    Secretary of State's Office, so we make sure that the</p> <p>23    information on those posters is current, and we actually</p> <p>24    produce the posters in English and Spanish for those NVRA</p> <p>25    agency offices.</p>

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<p style="text-align: right;">281</p> <p>1 Q. Okay. And are those posters the same posters 2 that -- and bear with me. I haven't had much time to 3 review this. But are there -- I believe there are 4 posters mentioned on here or print items. Are those the 5 same posters that are mentioned on here or are those just 6 specific to the partner agencies?</p> <p>7 A. Those are -- those are separate from anything 8 on here. Anything on here is something the secretary 9 would use in her personal visits to counties. What I'm 10 talking about are posters that we produce in-house -- we 11 do the graphics for them as well as the printing -- and 12 distribute to counties and to benefit agencies.</p> <p>13 Q. Okay. And other than the routine 14 communications with the counties that you mentioned, the 15 website, and these partner agency collaborations, are 16 there any other components that you'd say to the 17 education campaign?</p> <p>18 A. Well, you know, as I mentioned before, the mass 19 mail-out of voter registration certificates occurs at the 20 end of every odd-numbered year, and we communicate 21 information on those as well specifically with regard to 22 photo ID. The mass mail-out in 2011 didn't actually 23 occur until April of 2012 because of redistricting, and 24 so that delayed card, anyway, when it was mailed it had 25 on the back of it a conditional, if cleared by the</p>	<p style="text-align: right;">283</p> <p>1 A. Yes, in collaboration with our communications 2 department, but we -- I don't know how you -- we hire a 3 vendor with certain expertise so that they -- and we rely 4 on that expertise.</p> <p>5 Q. Okay. And is this -- based on your 6 understanding, is this the entirety of the paid media 7 campaign? Do you think -- or I'll let you respond.</p> <p>8 A. I don't know if it's all of it or not. It says 9 it's a wrap-up. It doesn't give an indication that 10 there's more than one page, but I -- I don't know.</p> <p>11 Q. Do you know if there was a wrap-up document 12 that contained all of the paid media campaign?</p> <p>13 A. I am not aware if a document other than this 14 one exists or not.</p> <p>15 Q. Does the vendor develop documents that contain 16 wrap-ups separately from the Secretary of State's 17 documents that they send to you?</p> <p>18 A. Yes. I think that's what this is.</p> <p>19 Q. Okay. And if there was such a document would 20 that have already been produced?</p> <p>21 A. Yes.</p> <p>22 Q. Assuming this is the entirety of the wrap-up, 23 then, of the paid media campaign, I'd like to direct your 24 attention to the first table, which is entitled, Radio 25 Flights.</p>
<p style="text-align: right;">282</p> <p>1 federal government this is what you'll be -- you'll need 2 to bring to vote, and it had the list of forms of photo 3 identification.</p> <p>4 Q. Okay. Are there -- have there been any 5 documents created that list everything that the Secretary 6 of State does with respect to photo ID education in 7 particular?</p> <p>8 A. I don't think that any such document has been 9 created, no, sir.</p> <p>10 Q. Okay. Let me mark one more document here as 11 31.</p> <p>12 (Exhibit No. 31 marked)</p> <p>13 Q. And if you could just take a look at this, and 14 let me know when you've had a chance.</p> <p>15 A. (Reviewing document)</p> <p>16 Q. Do you recognize this document?</p> <p>17 A. I don't believe I've ever seen this document, 18 but I can tell you what it is.</p> <p>19 Q. Okay. What is it?</p> <p>20 A. It is -- I don't know if it's all or if it's 21 part of the paid media summary of the campaign prior to 22 the November 2013 election from our vendor TKO.</p> <p>23 Q. Okay. And is this -- so was TKO responsible 24 for each of these components, radio, cable, and print 25 newspaper ads?</p>	<p style="text-align: right;">284</p> <p>1 A. Yes, sir.</p> <p>2 Q. Is this -- assuming this is the entirety of the 3 radio flights, would this include both English and 4 Spanish -- English and Spanish components of your radio 5 campaign?</p> <p>6 A. See, I just don't -- I just don't know.</p> <p>7 Q. Okay. Well, do you see the column marked -- or 8 titled, Market?</p> <p>9 A. Yes.</p> <p>10 Q. Is that a list of all of the markets where 11 there were radio advertisements?</p> <p>12 A. I don't know. I know that they rely on the 13 Texas State Network for statewide stuff, and you can see 14 that most of the impressions are off of Texas State 15 Network.</p> <p>16 Q. Okay. And what is an impression?</p> <p>17 A. An impression is an opportunity for an audience 18 member to hear the spot.</p> <p>19 Q. Okay. And so you said it's an opportunity. It 20 is not -- is it not actually a measure of how many people 21 have actually seen the ad? Is that right?</p> <p>22 A. That's right.</p> <p>23 Q. So, for example, if someone -- let's say under 24 the cable TV flights, if someone had one of these 25 channels, they subscribed to one of these channels, would</p>

<p style="text-align: right;">285</p> <p>1 that count as an impression?</p> <p>2     A. Not exactly. They somehow do some magic with</p> <p>3 the ratings for whenever the spot runs to determine how</p> <p>4 many people had the opportunity to see the spot. So in</p> <p>5 other words, it's not just how many people have access to</p> <p>6 the channel, it's how many people were -- the ratings</p> <p>7 show were actually on the channel.</p> <p>8     Q. Okay. And is there -- there may be duplication</p> <p>9 among some of these impressions? Some people might count</p> <p>10 as being one of the impressions under the radio as well</p> <p>11 as under cable; is that right?</p> <p>12     A. Well, I don't know -- I don't know if that's --</p> <p>13 if that's true or not. I would imagine that you could</p> <p>14 have somebody who would have an opportunity to hear one</p> <p>15 or more of these radio spots would also have an</p> <p>16 opportunity to see one or more of these TV spots, yes.</p> <p>17     Q. Right. And even within the radio flights, I</p> <p>18 mean, someone may be in one of the city markets, but they</p> <p>19 might also be counted within the statewide market; is</p> <p>20 that right?</p> <p>21     A. Certainly they could have been listening to the</p> <p>22 spots when they played locally as well as on the state</p> <p>23 network.</p> <p>24     Q. Okay. So there's no -- the figure of</p> <p>25 impressions doesn't -- it doesn't count for that</p>	<p style="text-align: right;">287</p> <p>1 fill, and one of the parameters is market penetration and</p> <p>2 specific target markets. And there was an emergency</p> <p>3 procurement in the fall campaign, so the emergency</p> <p>4 procurement didn't go through the full RFP process, and</p> <p>5 so I don't know exactly what was communicated to TKO with</p> <p>6 regard to what they needed to emphasize. I do know that</p> <p>7 Alicia worked closely with TKO with regard to the</p> <p>8 schedule for where things would be placed. And, of</p> <p>9 course, the budget was all of our Secretary of State</p> <p>10 money, so it had to be used judiciously.</p> <p>11     Q. And would Alicia be the best person to speak to</p> <p>12 about the details of the paid media campaign plan?</p> <p>13     A. Alicia dealt with it directly. However, I'm</p> <p>14 happy to answer any questions that you've got on it.</p> <p>15     Q. Okay. And one question would be, how were</p> <p>16 these specific markets chosen?</p> <p>17     A. TKO's expertise.</p> <p>18     Q. And so the Secretary of State didn't --</p> <p>19     A. With the assistance and guidance of the</p> <p>20 Secretary of State and what they wanted to emphasize to</p> <p>21 get the most bang for our limited bucks.</p> <p>22     Q. Okay. And what did you want to emphasize?</p> <p>23     A. Number of impressions.</p> <p>24     Q. The number of impressions. And what are the</p> <p>25 types of places where you would get more impressions?</p>
<p style="text-align: right;">286</p> <p>1 duplication?</p> <p>2     A. The figure of impressions is a -- is a term of</p> <p>3 art used in media campaigns to -- to measure how many --</p> <p>4 how far-reaching the ad campaign was. So it's not</p> <p>5 designed to be correlated directly with audience members</p> <p>6 that specifically heard it or saw it, it's designed to</p> <p>7 show how far-reaching the media campaign was, and so</p> <p>8 there's not any way to do a one-for-one comparison of</p> <p>9 actual views of the ads unless you do surveys, and as</p> <p>10 part of our media campaigns we actually have the vendors</p> <p>11 do audience surveys as well.</p> <p>12     Q. Okay. And did -- what were all the surveys</p> <p>13 that were done to determine where the paid media should</p> <p>14 be placed?</p> <p>15     A. I don't know how they make those</p> <p>16 determinations. Again, we hire vendors with certain</p> <p>17 expertise and we rely on that expertise to -- to do the</p> <p>18 placements.</p> <p>19     Q. Do you work with them to develop the criteria</p> <p>20 that would go into determining a proper placement of</p> <p>21 advertisements?</p> <p>22     A. We -- you know, I can speak more particularly</p> <p>23 of the 2014 campaign because I was part of the RFO</p> <p>24 process. We put out in the request for proposal</p> <p>25 parameters that we would like for a vendor to be able to</p>	<p style="text-align: right;">288</p> <p>1     A. Places with lots of people.</p> <p>2     Q. Places with lots of people. And those would</p> <p>3 probably be the larger markets; is that right?</p> <p>4     A. Larger markets and statewide, yes, sir.</p> <p>5     Q. Okay. So was there any research done to</p> <p>6 determine whether the largest markets where you wanted to</p> <p>7 target your paid media campaign were also the places</p> <p>8 where there happened to be more people who needed</p> <p>9 education on the law?</p> <p>10     A. I don't know how to determine who needs</p> <p>11 education on the law. We figure with a -- with a</p> <p>12 complete change -- or a significant change like photo ID</p> <p>13 requirements that the widest possible market needs to</p> <p>14 know about it since it's going to affect all voters and</p> <p>15 all voters haven't previously known about it.</p> <p>16     Q. Okay. And of the -- of the, I think, 19</p> <p>17 different radio campaigns that are listed, as you look at</p> <p>18 this list are -- are you familiar with the cities listed</p> <p>19 here?</p> <p>20     A. Sure.</p> <p>21     Q. Okay. Are any of them, let's say, south of</p> <p>22 Houston?</p> <p>23     A. I don't know. I don't think Beaumont is south</p> <p>24 of Houston. It's probably level with it.</p> <p>25     Q. Okay. Well, are any of them in, let's say,</p>

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<p style="text-align: right;">289</p> <p>1   Corpus Christi or further south of that?</p> <p>2   <b>A. Well, the statewide spots for the Texas State</b></p> <p>3   <b>Network are -- are statewide, so yes.</b></p> <p>4   Q. Okay. And the statewide network -- if you look</p> <p>5   under the column marked Station, is that just -- is there</p> <p>6   just one station listed there?</p> <p>7   <b>A. The Texas State Network feeds programming to</b></p> <p>8   <b>stations all over the state.</b></p> <p>9   Q. Okay. So do you have a sense of how many radio</p> <p>10   stations is incorporated in the Texas statewide network?</p> <p>11   <b>A. No, but I know that their -- their people who</b></p> <p>12   <b>purchase their programming are rural and smaller market</b></p> <p>13   <b>stations.</b></p> <p>14   Q. Okay. And how many counties did this get to --</p> <p>15   did this reach, I think is -- was the terminology used.</p> <p>16   <b>A. I don't know. As far as I know every county</b></p> <p>17   <b>was reached.</b></p> <p>18   Q. Okay. And --</p> <p>19   <b>A. Had -- had impressions in every county.</b></p> <p>20   Q. So if one county had -- how many impressions</p> <p>21   does it take -- or how do you define reach? Would one</p> <p>22   impression, would that constitute being that a county was</p> <p>23   reached, if it received one impression?</p> <p>24   <b>A. I don't know. You know, the -- when it comes</b></p> <p>25   <b>to paid media, the more money you spend and the more</b></p>	<p style="text-align: right;">291</p> <p>1   Q. And what was that research? Did it just</p> <p>2   measure the number of impressions?</p> <p>3   <b>A. No, no, it -- there was a full-blown survey</b></p> <p>4   <b>performed by Burson Marsteller in connection with the</b></p> <p>5   <b>spring 2014 campaign, and the research was -- you know,</b></p> <p>6   <b>it was a general opinion survey done with regular opinion</b></p> <p>7   <b>survey methods and metrics testing whether or not voters</b></p> <p>8   <b>had heard of the Secretary of State's fall campaign,</b></p> <p>9   <b>testing whether or not voters were familiar with the</b></p> <p>10   <b>forms of ID, testing whether or not they had deficiencies</b></p> <p>11   <b>in their level of knowledge with regard to any of this.</b></p> <p>12   <b>And so the goal of that survey was to make sure that the</b></p> <p>13   <b>education program -- the paid media education program for</b></p> <p>14   <b>2014 addressed any deficiencies that remained after the</b></p> <p>15   <b>fall 2013 campaign, and the Burson Marsteller survey had</b></p> <p>16   <b>very high levels of familiarity with the requirement of</b></p> <p>17   <b>having a photo ID, with the -- with the ability to get a</b></p> <p>18   <b>free election identification certificate if needed. It</b></p> <p>19   <b>was -- it was really a very -- from our perspective, the</b></p> <p>20   <b>earned media, the paid media, the -- the complete news</b></p> <p>21   <b>effort that occurred in 2013 had its intended results in</b></p> <p>22   <b>that most voters across the state in all demographics</b></p> <p>23   <b>were familiar with the need to have a photo ID and how to</b></p> <p>24   <b>get one if they didn't have one.</b></p> <p>25   Q. Did you give this survey to your attorney in</p>
<p style="text-align: right;">290</p> <p>1   repetition you get, the more impressions you get, the</p> <p>2   more likely that you've actually penetrated the</p> <p>3   consciousness of a person or two or 15 or 30. So we</p> <p>4   didn't have very much money. This is money that we</p> <p>5   assembled together inside of our agency, because Help</p> <p>6   America Vote Act money for voter education can't be used</p> <p>7   for non-federal voter campaigns, so if we were going to</p> <p>8   have a campaign at all for the constitutional amendment</p> <p>9   and local election on the uniform date in November of</p> <p>10   2013, then we needed to come up with money from other</p> <p>11   agency strategies, and then what we did with that money</p> <p>12   that we came up with was put it inside of HAVA as a state</p> <p>13   match and then spent the money as state money, but using</p> <p>14   the HAVA strategy. And so that limitation meant that we</p> <p>15   had to maximize the reach of the program and not the</p> <p>16   depth. So, you know, to the extent that the quibble is</p> <p>17   with the depth of the program and whether or not it</p> <p>18   actually impacted particular voters in particular</p> <p>19   counties, we did the best we could with the money that we</p> <p>20   had, and our goal was to -- was to maximize the reach,</p> <p>21   not the depth, for the fall 2013 campaign.</p> <p>22   Q. Okay. And so was any research done after the</p> <p>23   fall 2013 campaign to determine -- to determine the</p> <p>24   effectiveness of the paid media campaign?</p> <p>25   <b>A. Yes.</b></p>	<p style="text-align: right;">292</p> <p>1   response to the request for production?</p> <p>2   <b>A. I don't know if that's a proprietary document</b></p> <p>3   <b>of Burson Marsteller or not.</b></p> <p>4   Q. But it would be within the Secretary of State's</p> <p>5   possession and responsive to the -- the request?</p> <p>6   <b>A. I -- I don't know, because it was part of a</b></p> <p>7   <b>request for a proposal process, and so I don't know if</b></p> <p>8   <b>that stays confidential and is not subject to open</b></p> <p>9   <b>records. I don't know if that's subject to something</b></p> <p>10   <b>that would have to require confidential sealing. I don't</b></p> <p>11   <b>know the discovery process on that document.</b></p> <p>12   Q. Okay. You mentioned that the survey tested the</p> <p>13   deficiencies in people's knowledge of the ID</p> <p>14   requirements. What were -- what were the deficiencies</p> <p>15   that you found?</p> <p>16   <b>A. Very little.</b></p> <p>17   Q. Could you elaborate? Were there -- what were</p> <p>18   they?</p> <p>19   <b>A. Well, like I said, most voters -- I don't</b></p> <p>20   <b>remember the numbers -- were familiar with the need to</b></p> <p>21   <b>bring a photo ID and they had a pretty good idea -- they</b></p> <p>22   <b>could spontaneously regurgitate a significant number of</b></p> <p>23   <b>the categories of photo ID.</b></p> <p>24   Q. Did it test knowledge of the -- like any</p> <p>25   components of the election identification certificate</p>

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<p style="text-align: right;">293</p> <p>1 process?</p> <p>2     <b>A. I don't know if that was specifically asked</b></p> <p>3     <b>about or if it was just more general, do you know that</b></p> <p>4     <b>there's a free election identification certificate</b></p> <p>5     <b>available from DPS. So I don't know specifically what</b></p> <p>6     <b>the question was on EIC.</b></p> <p>7       Q. Okay. Going back to Exhibit 28.</p> <p>8       <b>A. Okay.</b></p> <p>9       Q. If you look at I E., it says that you targeted</p> <p>10     <b>rural voters, African-American voters, and Hispanic</b></p> <p>11     <b>voters.</b></p> <p>12       <b>A. Sure.</b></p> <p>13       Q. Why did you target such voters?</p> <p>14       <b>A. Well, there's a -- there's a -- I don't know if</b></p> <p>15     <b>you're familiar with the problem of media consumption in</b></p> <p>16     <b>our modern age that we live in. We have a very</b></p> <p>17     <b>fragmented media consumption environment. It used to be</b></p> <p>18     <b>that people had the same television channels that they</b></p> <p>19     <b>watched at the same time and were generally susceptible</b></p> <p>20     <b>to advertising through limited number of channels. With</b></p> <p>21     <b>our fragmented media environment, with the Internet and</b></p> <p>22     <b>people consuming what they want to consume rather than</b></p> <p>23     <b>what's pushed at them and the huge number of cable</b></p> <p>24     <b>channels, it's just an amazingly difficult proposition to</b></p> <p>25     <b>get a message out across enough platforms to reach the</b></p>	<p style="text-align: right;">295</p> <p>1       <b>Q. And was it all spent?</b></p> <p>2       <b>A. Yes.</b></p> <p>3       <b>Q. And was it all spent specifically on education</b></p> <p>4     <b>of the ID law?</b></p> <p>5       <b>A. I believe so. I don't think there was any</b></p> <p>6     <b>other general voter education message in the fall</b></p> <p>7     <b>campaign. I think it was all photo ID. All of the radio</b></p> <p>8     <b>advertising were forms of ID that are acceptable and</b></p> <p>9     <b>required, and all the print media was the same and all</b></p> <p>10     <b>the TV was the same.</b></p> <p>11       Q. And in Exhibit 29, Phase 1 of the 2014</p> <p>12     <b>campaign, the \$400,000 figure there, is that -- would you</b></p> <p>13     <b>give the same response that you just gave, that it's all</b></p> <p>14     <b>on voter ID?</b></p> <p>15       <b>A. No. The Help America Vote Act education money</b></p> <p>16     <b>can't be specifically targeted to only one thing, so</b></p> <p>17     <b>voter ID in -- in the voter education campaign this year</b></p> <p>18     <b>is the largest, most substantive component of the</b></p> <p>19     <b>education campaign, but it is in a larger, be prepared to</b></p> <p>20     <b>vote campaign.</b></p> <p>21       Q. Okay. And what component of that would you</p> <p>22     say, then, is spent on voter ID?</p> <p>23       <b>A. Most of it. And it's -- and it's featured in</b></p> <p>24     <b>every single communication.</b></p> <p>25       Q. Okay. And in Phase 2 in Exhibit 30 it mentions</p>
<p style="text-align: right;">294</p> <p>1     <b>people that you want to reach. And there are differences</b></p> <p>2     <b>in the way media is consumed by demographic group, so</b></p> <p>3     <b>African-American voters get a lot of their information</b></p> <p>4     <b>from their community newspapers and Hispanic voters get</b></p> <p>5     <b>a lot of information on mobile devices. And so the idea</b></p> <p>6     <b>was to use the expertise of TKO and to use the expertise</b></p> <p>7     <b>of Burson Marsteller for this year's campaign to make</b></p> <p>8     <b>sure that we get the message across all the demographics</b></p> <p>9     <b>in the state of Texas in this very challenging media</b></p> <p>10     <b>environment given the limitations of the resources</b></p> <p>11     <b>available.</b></p> <p>12       Q. Did you find that these groups of voters --</p> <p>13     would you say that these groups of voters</p> <p>14     disproportionately needed education on the ID</p> <p>15     requirements, then, because of deficiencies or problems</p> <p>16     in the way that they get information?</p> <p>17       <b>A. No, that's -- that's not the implication at</b></p> <p>18     <b>all. The implication is that since they consume media</b></p> <p>19     <b>differently, to reach those voters there has to be a more</b></p> <p>20     <b>targeted effort.</b></p> <p>21       Q. Okay. And you may have gone over this already.</p> <p>22     But the 400,000 figure at the top, is that -- what does</p> <p>23     that figure represent? Is that what was budgeted?</p> <p>24       <b>A. Yes, that's -- that's money that we came up</b></p> <p>25     <b>with from our agency to use for this effort.</b></p>	<p style="text-align: right;">296</p> <p>1     1.6 million. Do you have a sense of what proportion of</p> <p>2     that amount will be spent specifically on voter ID?</p> <p>3       <b>A. Well, that's what I'm trying to say, that the</b></p> <p>4     <b>campaign for 2014 is part of HAVA, and HAVA has more</b></p> <p>5     <b>broad education requirements, so we have a more robust</b></p> <p>6     <b>voter education campaign. Voter ID is central to that</b></p> <p>7     <b>campaign, so every communication in this campaign is</b></p> <p>8     <b>going to talk about voter ID. So it's not as if part of</b></p> <p>9     <b>the money is going to voter ID and part of it's not.</b></p> <p>10     <b>It's part of a bigger picture this year than it was last</b></p> <p>11     <b>fall.</b></p> <p>12       Q. And do you have -- or has the budget for voter</p> <p>13     education been established for any elections after 2014?</p> <p>14       <b>A. No.</b></p> <p>15       Q. Do you have plans to increase the budget in</p> <p>16     2016?</p> <p>17       <b>A. I don't know what the legislature is going to</b></p> <p>18     <b>do about that. I don't -- that's down the road.</b></p> <p>19       Q. What does it depend on?</p> <p>20       <b>A. It depends on their willingness to give us</b></p> <p>21     <b>money.</b></p> <p>22       Q. Okay. All right. So the -- back on</p> <p>23     Exhibit 31, the paid media wrap-up, the second table has</p> <p>24     to do with cable TV. How were those markets chosen?</p> <p>25     Were those also primarily chosen based on impressions?</p>

<p style="text-align: right;">297</p> <p>1     <b>A. Yes. And again, it's -- it would have been</b>    2     <b>TKO's expertise and consultation with Alicia Pierce.</b>    3       Q. And the criteria was more in terms of how many    4       people would be hit and not so much who needed education    5       on voter ID?</p> <p>6       <b>A. The goal of the campaign was to have as wide</b>    7       <b>a reach as possible, to have as wide a reach for the</b>    8       <b>impressions as possible, yes, sir.</b></p> <p>9       Q. Okay. And in -- in the third table, on the    10      print --</p> <p>11      <b>A. Can I -- I'm sorry.</b></p> <p>12      Q. Sure.</p> <p>13      <b>A. What I would like to add is that when it comes</b>    14      <b>to cable TV advertising it can be a much more targeted</b>    15      <b>sort of effort, and I don't know which particular cable</b>    16      <b>channels are behind these spots, and so it could be that</b>    17      <b>there was some consideration given to the particular</b>    18      <b>demographic of the audience for a particular channel that</b>    19      <b>received one or more of these spots.</b></p> <p>20      Q. And would there be a document somewhere that    21      would show all those considerations?</p> <p>22      <b>A. TKO should have some sort of sheet showing</b>    23      <b>where each individual spot was run.</b></p> <p>24      Q. Would it show all the considerations that were    25      taken into account in determining that these were the</p>	<p style="text-align: right;">299</p> <p>1       <b>worker training module as well as prepared a complete</b>    2       <b>PowerPoint for poll worker training that counties could</b>    3       <b>use if they didn't want to use our on-line module and --</b>    4       <b>and had made that change throughout all the materials,</b>    5       <b>and so we didn't have a specific photo ID poll worker</b>    6       <b>training piece after that. We also -- I lost my train of</b>    7       <b>thought. I'm sorry. That -- that -- that's basically</b>    8       <b>it. And the poll worker training that we had, the</b>    9       <b>counties can also add their own stuff to it. All we have</b>    10      <b>is what the minimum requirement is.</b></p> <p>11      Q. Okay. And if a county were to add their own    12      stuff to the -- to the training that you provide them, do    13      you review those?</p> <p>14      <b>A. Usually, yes, sir.</b></p> <p>15      Q. And do you have to give approval before those    16      are used?</p> <p>17      <b>A. I don't know if we have to. Counties usually</b>    18      <b>ask us to.</b></p> <p>19      Q. Okay. And you mentioned the on-line poll    20      worker training tool. When did you say that was    21      finalized?</p> <p>22      <b>A. I don't remember the exact date. It would have</b>    23      <b>been in September of 2013, probably middle to the end of</b>    24      <b>the month.</b></p> <p>25      Q. Okay. And do you have a sense of what</p>
<p style="text-align: right;">298</p> <p>1      best markets?</p> <p>2      <b>A. No.</b></p> <p>3      Q. Okay. Switching topics to poll worker    4      training, you stated in prior deposition testimony    5      that -- or earlier today, actually, that local officials    6      are responsible for making sure that the poll workers go    7      through training; is that right?</p> <p>8      <b>A. That's right.</b></p> <p>9      Q. Okay. And what are all the materials that    10     the -- or what is the Secretary of State's involvement in    11     developing poll workers' materials?</p> <p>12     <b>A. We -- we do -- in 2013 it was kind of a special</b>    13     <b>thing because we were in the midst of implementing the</b>    14     <b>law at the -- at -- on the fly. And so, you know, in</b>    15     <b>August and September we had local elections in Hidalgo</b>    16     <b>County and Galveston, and so they needed to train their</b>    17     <b>poll workers on photo ID requirements right away, and so</b>    18     <b>we adopted some of the materials that we used for our</b>    19     <b>county election officials seminar in July and made that</b>    20     <b>into poll worker training with regard to photo ID, and we</b>    21     <b>sent those PowerPoints to the counties to use in</b>    22     <b>connection with the rest of their poll worker training</b>    23     <b>process for those local elections. By the time the poll</b>    24     <b>worker training came around in September for the November</b>    25     <b>election we had completely revamped our on-line poll</b></p>	<p style="text-align: right;">300</p> <p>1      percentage of poll workers are trained through that tool?</p> <p>2      <b>A. I would -- I would say a low percent.</b></p> <p>3      Q. Okay. And what is the breakdown of the way in    4      which poll workers are trained?</p> <p>5      <b>A. Well, in any given election you could have as</b>    6      <b>many as 20,000 poll workers, and we've had 13,000 people</b>    7      <b>use the on-line poll worker training tool since it's been</b>    8      <b>in effect since 2007, so that tells you right away that</b>    9      <b>the numbers percentage-wise of poll workers actually</b>    10     <b>being trained with the on-line tool is small.</b></p> <p>11     Q. Okay. And you said 20 percent? I'm sorry.    12     What was --</p> <p>13     <b>A. No. Every election has probably more than</b>    14     <b>20,000 poll workers, and 13,000 have used on-line poll</b>    15     <b>worker training since its inception eight years ago.</b></p> <p>16     Q. Got it.</p> <p>17     <b>A. Seven years ago.</b></p> <p>18     Q. Okay. And have you received feedback from    19     election officials or poll workers about the tool?</p> <p>20     <b>A. The feedback that we've received regarding the</b>    21     <b>on-line poll worker training tool has been positive for</b>    22     <b>the ones who use it. The reason that it's not used as</b>    23     <b>much as we would like is because the county election</b>    24     <b>officials like to have in-person training sessions where</b>    25     <b>they can interface with the poll workers and, you know,</b></p>

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<p>1 <b>have -- have that feedback loop that I mentioned earlier.</b></p> <p>2 Q. Okay. Let's mark this document.</p> <p>3 (Exhibit No. 32 marked)</p> <p>4 Q. I'll give you a chance to look through a few</p> <p>5 pages.</p> <p>6 <b>A. Okay.</b></p> <p>7 Q. Okay. And do you know what this is?</p> <p>8 <b>A. This appears to be screen shots from our</b></p> <p>9 <b>on-line poll worker training.</b></p> <p>10 Q. Okay. And do you have the underlying documents</p> <p>11 that make -- does the Secretary of State keep the</p> <p>12 underlying documents that make up the on-line poll worker</p> <p>13 training, the -- the pages? Are those in your system</p> <p>14 somewhere?</p> <p>15 <b>A. I'm not sure in what form they exist. I know</b></p> <p>16 <b>that Leticia Salazar in my office is the one who has this</b></p> <p>17 <b>responsibility and role. She gets the input from the</b></p> <p>18 <b>attorneys about the content, but actually making the</b></p> <p>19 <b>changes on here is her province, and I believe that she</b></p> <p>20 <b>has this on one of our hard drives that we share in the</b></p> <p>21 <b>elections division and that she's got the previous</b></p> <p>22 <b>version before photo ID saved as well.</b></p> <p>23 Q. Okay. And so will you produce those documents</p> <p>24 if -- if you haven't already?</p> <p>25 MR. KEISTER: Counsel, the witness isn't</p>	<p>1 the text underneath Key Point?</p> <p>2 <b>A. I do.</b></p> <p>3 Q. Okay. And is that an accurate statement of the</p> <p>4 law?</p> <p>5 <b>A. It is not.</b></p> <p>6 Q. Okay. And does that basically say the same</p> <p>7 thing, that -- could you read it out loud, please.</p> <p>8 <b>A. Sure. It says: Each voter must present a</b></p> <p>9 <b>voter registration certificate or one of eight acceptable</b></p> <p>10 <b>forms of ID.</b></p> <p>11 Q. Okay. And neither of those statements are</p> <p>12 accurate with respect to the -- the voter ID law,</p> <p>13 correct, currently?</p> <p>14 <b>A. That's correct.</b></p> <p>15 Q. Okay. And you haven't received any feedback</p> <p>16 from election officials or poll workers about -- about</p> <p>17 this?</p> <p>18 <b>A. We have not.</b></p> <p>19 Q. Okay.</p> <p>20 <b>A. What I don't understand is why there's a button</b></p> <p>21 <b>that says: Photo ID now required for voting in Texas.</b></p> <p>22 <b>Is there a way for me to get a copy of this and leave</b></p> <p>23 <b>with it today? I don't want to take the exhibit, but I</b></p> <p>24 <b>want this.</b></p> <p>25 Q. Yes. Yes, I'll give you my other copy of it.</p>
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<p>1 going to make agreements on production, but if they</p> <p>2 haven't been produced, you can certainly request them.</p> <p>3 Q. Okay. Could you flip to the fourth page on</p> <p>4 here. Okay. If I represent to you that this is the --</p> <p>5 the part of the training that deals with qualifying</p> <p>6 voters at the polls, does that sound accurate?</p> <p>7 <b>A. Well, that's -- that's what the first page of</b></p> <p>8 <b>this says.</b></p> <p>9 Q. Okay. And the date at the bottom right-hand</p> <p>10 corner, that's yesterday; is that correct?</p> <p>11 <b>A. That's what it says.</b></p> <p>12 Q. Okay. And could you just review the text</p> <p>13 underneath the title, Step 1: Voter Registration</p> <p>14 Certificate?</p> <p>15 <b>A. Uh-huh.</b></p> <p>16 Q. Does that seem like an accurate statement of</p> <p>17 the law?</p> <p>18 <b>A. It does not.</b></p> <p>19 Q. What does it say?</p> <p>20 <b>A. It says for a voter to present their voter</b></p> <p>21 <b>registration certificate as it is preferred.</b></p> <p>22 Q. And could you read the sentence after that?</p> <p>23 <b>A. There are eight other acceptable forms of ID.</b></p> <p>24 Q. Okay. And the -- on that same page, on the</p> <p>25 sidebar underneath the title, Key Point, do you see that</p>	<p>1 MR. ROSENBERG: Or we can make another</p> <p>2 copy.</p> <p>3 Q. Okay. Switching topics again, do you ask</p> <p>4 counties to keep track of persons who are turned away at</p> <p>5 the polls?</p> <p>6 <b>A. No.</b></p> <p>7 Q. Okay. So if someone was not provided or if</p> <p>8 there's no ballot and turned away, you have no way of</p> <p>9 tracking that?</p> <p>10 <b>A. Well, I don't know what you mean by turned</b></p> <p>11 <b>away. They shouldn't be turned away. They can</b></p> <p>12 <b>voluntarily decide to leave and go get an acceptable form</b></p> <p>13 <b>of ID and come back. So if we hear about a voter being</b></p> <p>14 <b>turned away we will call that to the county election</b></p> <p>15 <b>official's attention and ask them to remedy it with the</b></p> <p>16 <b>poll workers.</b></p> <p>17 Q. Okay. And how would you normally hear of that</p> <p>18 happening?</p> <p>19 <b>A. A voter calls.</b></p> <p>20 Q. Through the hotline that you mentioned earlier?</p> <p>21 <b>A. That's right.</b></p> <p>22 Q. How is that hotline advertised?</p> <p>23 <b>A. Well, there -- there's information in the</b></p> <p>24 <b>polling place. The notice of ID requirements has the</b></p> <p>25 <b>phone number on it. I don't know. There's probably</b></p>

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<p>1 several other pieces of information inside the polling  2 place posted on the walls that has the phone number on it  3 as well as the voter registration certificate has the  4 phone number on it.</p> <p>5 Q. Okay.</p> <p>6 A. And if you Google Secretary of State you'll get  7 VoteTexas.Gov or SOS.TX.US.Gov, and both of them have the  8 phone number.</p> <p>9 Q. And the phone number, is that a general phone  10 number to the Secretary of State's Office or is this a  11 separate hotline that is advertised separately?</p> <p>12 A. No, no, it's -- it's -- it's our phone number.</p> <p>13 Q. Okay.</p> <p>14 A. The voter hotline is our phone number.</p> <p>15 Q. Okay. One last set of questioning on the  16 mobile EICs. What factors do you use to determine the  17 hours of the -- for the mobile EIC units?</p> <p>18 A. Well, the hours that the building will be open  19 and the hours the DPS is available to operate the  20 equipment.</p> <p>21 Q. Anything else?</p> <p>22 A. That was for the fall campaign, so I don't --  23 sometimes the counties want extended hours or we'd ask  24 DPS to provide extended hours or we'd make sure that the  25 county used a building that had extended hours available,</p>	<p>1 voters.</p> <p>2 Q. Do you know what they did?</p> <p>3 A. I do know that they emphasized community  4 newspapers in African-American communities, that they  5 primarily geared the mobile app and mobile information  6 for Hispanic voters, and then, of course, used  7 advertising on media consumed by those voters.</p> <p>8 Q. Do you know what studies or analyses were done  9 as to which forms of media were best to be used for  10 purposes of reaching certain minorities?</p> <p>11 A. I don't. That would be -- that would be within  12 the expertise of Burson or TKO.</p> <p>13 Q. And you mentioned polling that was done by  14 Burson. Do you recall whether the polling results were  15 broken down in terms of the -- how successful the  16 campaign was for different minority groups?</p> <p>17 A. I believe that there was demographic  18 information in the poll, yes, sir. I don't know how  19 the -- how do you call it -- the margin of error might  20 have changed for smaller subgroups within the large  21 group.</p> <p>22 Q. Do you know what the results were within the  23 subgroups?</p> <p>24 A. I don't. I don't recall off the top of my  25 head.</p>
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<p>1 but primarily the drivers of availability were the  2 building being open and DPS being available.</p> <p>3 Q. Okay. So you didn't prioritize weekend hours  4 or weekday evening hours then?</p> <p>5 A. No.</p> <p>6 MR. AGRAHARKAR: Okay. If I could just  7 have a moment off the record.</p> <p>8 (Off the record 4:51 p.m. to 4:52 p.m.)</p> <p>9 MR. ROSENBERG: I have a few follow-up  10 questions and then we'll pass the witness.</p> <p>11 EXAMINATION</p> <p>12 BY MR. ROSENBERG:</p> <p>13 Q. Just going back to the person that  14 Mr. Agraharkar spoke about in terms of whether someone  15 can use a suspended license as one of the SB 14 forms of  16 identification. Can one use a revoked license?</p> <p>17 A. Well, again, I don't know if a revoked license  18 will still be in the driver's possession. If it is and  19 it's not expired, then yes.</p> <p>20 Q. And then just a few follow-ups on the issue of  21 the targeting of blacks -- black voters and Hispanic  22 voters. Precisely how was that targeting done?</p> <p>23 A. That's -- that's one of those situations where  24 we rely upon the expertise of the vendor to -- to make  25 sure that they use appropriate channels to get to those</p>	<p>1 Q. And who would be the best person to ask those  2 questions of?</p> <p>3 A. Burson Marsteller.</p> <p>4 Q. Who at Burson Marsteller?</p> <p>5 A. I don't know.</p> <p>6 Q. Who would know at the Secretary of State?</p> <p>7 A. Well, I would whenever my mind's working  8 properly. I can't remember her name off the top of my  9 head who's our account executive at Burson.</p> <p>10 MR. ROSENBERG: Okay. We pass the  11 witness.</p> <p>12 EXAMINATION</p> <p>13 BY MR. ROSS:</p> <p>14 Q. Hello, Mr. Ingram.</p> <p>15 A. Hello.</p> <p>16 Q. How are you?</p> <p>17 A. Marvelous.</p> <p>18 Q. My name is Deuel Ross. I'm an attorney with  19 the NAACP Legal Defense Fund.</p> <p>20 A. Yes, sir.</p> <p>21 Q. And I'm representing the Texas League of Young  22 Voters. I'm going to talk to you a little bit about the  23 availability of EICs and ask you some follow-up questions  24 about the mobile stations.</p> <p>25 A. Okay.</p>

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<p style="text-align: right;">309</p> <p>1 Q. Can you tell me -- can you walk me through the 2 process of how the locations of the mobile stations for 3 Phase 2 were decided?</p> <p>4 A. Sure. As I -- as I mentioned to Ms. Westfall, 5 there were two sort of driving characteristics of the 6 fall mobile EIC location placement, and number one was 7 where are concentrations of voters that don't match with 8 a DL or a Texas ID in our process and where are wide-open 9 empty spaces away from a driver license office. So those 10 were the two driving considerations for location of the 11 mobile EIC units in the fall of 2013.</p> <p>12 Q. Were there any other factors taken into 13 consideration?</p> <p>14 A. I believe that some counties requested the 15 presence of a -- of an election identification 16 certificate mobile station, and so we certainly took 17 those into account if someone requested it.</p> <p>18 Q. Do you know who from those counties requested 19 it?</p> <p>20 A. I know that Dallas wanted a repeat visit. I 21 know that Bexar County wanted to make sure that -- that 22 we had a repeat visit to Bexar County. I don't know of 23 any others off the top of my head.</p> <p>24 Q. Would they be the county registrars that 25 requested it or anyone specific?</p>	<p style="text-align: right;">311</p> <p>1 cold.</p> <p>2 Q. What about people who weren't in government who 3 requested the presence of EICs?</p> <p>4 A. There -- we had some interactions with the 5 student government as well as the administration over at 6 Prairie View A&amp;M on an unrelated matter last year, and 7 they wanted to make sure that we had an EIC unit come to 8 Prairie View, and so we accommodated that request.</p> <p>9 Q. How did you accommodate that request?</p> <p>10 A. By having an election identification 11 certificate come to the Prairie View campus.</p> <p>12 Q. Okay.</p> <p>13 A. Mobile unit.</p> <p>14 Q. Do you know what days it was --</p> <p>15 A. I do not. It was -- it was early on because we 16 knew their request existed early.</p> <p>17 Q. Early on like a month maybe?</p> <p>18 A. I would say -- yeah, I would say late September 19 or early October. I don't know for sure though.</p> <p>20 Q. Do you know how many days it ended up being?</p> <p>21 A. I don't know. I would have to talk to 22 Robin German. She was the election administrator for 23 Waller County at the time and she had at least two units 24 to work with, and so I don't know how many days she spent 25 on campus and how many days were elsewhere around the</p>
<p style="text-align: right;">310</p> <p>1 A. Both Dallas and Bexar County have elections 2 administrators, and so it would have been their office.</p> <p>3 Q. Did any state-elected officials request that 4 something come?</p> <p>5 A. I don't know if we had any state-elected 6 officials. I'm pretty sure that Representative Turner 7 wanted to make sure that there were some in his district, 8 and we accommodated that. I don't know of any others 9 that made the specific request to have EIC unit 10 placement.</p> <p>11 Q. What about -- I know you mentioned some city 12 officials; I think it was in Trinity.</p> <p>13 A. That's right.</p> <p>14 Q. Anyone else who --</p> <p>15 A. The city manager in Trinity, Buddy Drake, 16 wanted to make sure that we came to Trinity this -- this 17 spring.</p> <p>18 Q. And were there any other city officials who 19 requested it?</p> <p>20 A. Not that I know of off the top of my head.</p> <p>21 Q. Okay. Did you place any special priority on 22 who was requesting the presence of the mobile stations?</p> <p>23 A. No. We've -- we've had a low enough number of 24 requests that all of them could be accommodated. We 25 haven't had to prioritize or leave anybody out in the</p>	<p style="text-align: right;">312</p> <p>1 county.</p> <p>2 Q. Do you know how many days ahead of time 3 Waller County was notified?</p> <p>4 A. I don't.</p> <p>5 Q. So, sir, going back a little bit to the 6 process, can you explain again what the role of the 7 Secretary of State is in deciding the location of a 8 mobile station?</p> <p>9 A. Well, it was our role to -- what we did is the 10 matching process to identify ZIP codes where there were 11 significant numbers of non-matches, so we -- we had that 12 role to play, and then it's also been our role to 13 interface with the county election officials to -- to 14 talk to them about where their voters might benefit from 15 an election identification certificate mobile station, 16 and then once we get locations from the county, to 17 communicate that information to the Department of Public 18 Safety so that they could do their process to make sure 19 it was a sufficient, adequate location for a unit.</p> <p>20 Q. Okay. And so if a -- if a county requested the 21 presence of a unit and DPS disagreed with that location, 22 what role would the Secretary of State play in sort of 23 mediating that?</p> <p>24 A. Well, I don't know if you're asking if a county 25 asked for EIC units and DPS refused in general, because</p>

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<p style="text-align: right;">313</p> <p>1 <b>that never happened.</b></p> <p>2 Q. Well, if they refused for a particular 3 location.</p> <p>4 <b>A. Right. And there was a -- there was a location</b> 5 <b>identified over in East Texas -- I think it was Liberty</b> 6 <b>County, as I mentioned before -- that DPS felt was not</b> 7 <b>suitable, and so we asked the county election</b> 8 <b>administrator to find a backup location, and she did.</b></p> <p>9 Q. Okay. So if there's a dispute between DPS and 10 your office regarding the location of a -- of a mobile 11 unit, who gets the final say in terms of where the 12 location will be?</p> <p>13 <b>A. I don't know. There -- there never has been</b> 14 <b>such a dispute.</b></p> <p>15 Q. If there were a dispute, do you --</p> <p>16 MR. KEISTER: Objection, calls for 17 speculation.</p> <p>18 <b>A. Yeah, I just -- I can't imagine that happening.</b></p> <p>19 Q. Are there particular groups of individuals 20 within the Secretary of State's Office who makes -- make 21 decisions about where to locate mobile stations?</p> <p>22 <b>A. The -- the team for the fall was myself,</b> 23 <b>Mr. Jackson, and our deputy secretary, Coby Shorter.</b> 24 <b>Currently we have my administration manager, Louri</b> 25 <b>O'Leary, who's heading up that process.</b></p>	<p style="text-align: right;">315</p> <p>1 <b>my manager's job description.</b></p> <p>2 Q. Okay. If we go back to -- I believe it's 3 marked Exhibit 4, the Memorandum of Understanding between 4 DPS and the Secretary of State's Office.</p> <p>5 <b>A. Sure.</b></p> <p>6 Q. Would you look at page 2 of that document?</p> <p>7 <b>A. Yes, sir.</b></p> <p>8 Q. And do you see the first full paragraph that 9 begins: Mobile EIC centers?</p> <p>10 <b>A. Yes.</b></p> <p>11 Q. Can you read that paragraph, just review it 12 briefly?</p> <p>13 <b>A. Sure. (Reviewing document) Okay.</b></p> <p>14 Q. Is that your understanding of the Secretary of 15 State's role in deciding the location of EICs?</p> <p>16 <b>A. I believe that accurately summarizes our role.</b></p> <p>17 <b>I will say that for this -- for this year's effort we've</b> 18 <b>changed that two day to five day.</b></p> <p>19 Q. Okay. Can you read aloud your -- the portion 20 that you believe is your understanding of the Secretary 21 of State's role in that paragraph?</p> <p>22 <b>A. Sure. It says: Mobile EIC centers will move</b> 23 <b>throughout the state to locations determined by SOS and</b> 24 <b>agreed to by DPS. SOS will notify DPS in writing of the</b> 25 <b>final location for each mobile EIC center at least two</b></p>
<p style="text-align: right;">314</p> <p>1 Q. And is there -- is there a task force between 2 the Secretary of State and DPS that makes those 3 decisions?</p> <p>4 <b>A. Currently the primary point of contact between</b> 5 <b>DPS and Secretary of State is Louri O'Leary, one of my</b> 6 <b>managers.</b></p> <p>7 Q. How were they selected for that position? How 8 were they selected? How were the individuals you just 9 mentioned on the Secretary of State's task force selected 10 to join in?</p> <p>11 <b>A. Well, last fall Wroe, myself, and the deputy</b> 12 <b>secretary did it because it needed to be done and the</b> 13 <b>time to do it was right now. We -- the deputy and I</b> 14 <b>talked about having that responsibility shifted to</b> 15 <b>someone else in the office, and so that's -- we felt like</b> 16 <b>Louri is very good at event planning sort of stuff --</b> 17 <b>she's an administrator by nature -- and so that she would</b> 18 <b>be a good person for that role, and we asked Louri to</b> 19 <b>take it on.</b></p> <p>20 Q. So is it fair to characterize it as a sort of 21 ad hoc committee, people -- or you picked folks who you 22 thought would be good to make those decisions or to work 23 on this project?</p> <p>24 <b>A. I wouldn't -- I wouldn't call it ad hoc. I</b> 25 <b>would -- I would characterize it more as adding to one of</b></p>	<p style="text-align: right;">316</p> <p>1 <b>full business days in advance of the requested start date</b> <b>of operations at that location.</b></p> <p>2 Q. And your -- your testimony was that it's now 3 five days, correct?</p> <p>5 <b>A. That's right. And I don't know if we've done</b> 6 <b>an official written modification of this MOU, but we</b> 7 <b>definitely have agreed that it's five days and not two</b> 8 <b>now.</b></p> <p>9 Q. So then based on your understanding of this 10 paragraph and the way the process works, the Secretary of 11 State's Office has final authorization about the location 12 of mobile stations?</p> <p>13 <b>A. Yeah, I don't think that that's exactly what</b> 14 <b>this says. What this says is the location is determined</b> 15 <b>by SOS and agreed to by DPS, and that's the way it's</b> 16 <b>worked in practice, that -- that our office has</b> 17 <b>determined where the mobile EIC units should go. We</b> 18 <b>offered those locations to DPS. DPS has agreed to almost</b> 19 <b>all of them except one that I can remember off the top of</b> 20 <b>my head.</b></p> <p>21 Q. And that's the Liberty Hill location -- or 22 excuse me -- Liberty location?</p> <p>23 <b>A. Liberty County location, right. And it could</b> 24 <b>be Orange and it could be Hardin. I just -- it's over in</b> 25 <b>Southeast Texas.</b></p>

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<p>1 Q. And do you know why the location in Liberty was 2 considered unsuitable by DPS?</p> <p>3 <b>A. I don't remember exactly what DPS' concern was.</b> 4 I believe that it was that the room was too small, too 5 crowded, and they felt like there needed to be more space 6 for -- for everything to work properly.</p> <p>7 Q. Okay. You previously testified that the 8 Secretary of State's Office used a January 2014 no-match 9 list to determine the location of the Phase 2 mobile 10 stations?</p> <p>11 <b>A. No, it was a July 2013 no-match list.</b></p> <p>12 Q. July 2013. My apologies. So can you explain 13 the process in which the Secretary of State used that 14 no-match list to determine where mobile stations would be 15 located?</p> <p>16 <b>A. Well, as I've described before, there were two 17 drivers for locations for the mobile EIC units in 18 Phase 2; one was rural nature of some parts of Texas, the 19 other was ZIP codes that had a high number of no matches 20 for ID. And so what we did was roughly split the mobile 21 units, some for taking care of rural voters and some for 22 taking care of concentrations in ZIP codes of 23 non-matches, and then we just worked the list.</b></p> <p>24 Q. Okay.</p> <p>25 THE REPORTER: Excuse me, counsel. Can we</p>	<p>1 <b>Baptist Church location was in reasonably close proximity 2 to the University of Houston. This spring we went to 3 Texas Women's University fulfilling a request, and I'm 4 not sure if we actually went to University of Texas or 5 just talked about it. But yes.</b></p> <p>6 Q. Okay. So you mentioned -- what was the women's 7 college? What was the name of that?</p> <p>8 <b>A. Texas Women's University.</b></p> <p>9 Q. And that was in response to a request?</p> <p>10 <b>A. That's right.</b></p> <p>11 Q. Do you know who made that request?</p> <p>12 <b>A. It was a graduate student and a professor. I 13 don't remember their names.</b></p> <p>14 Q. Okay. Do you know how they made that request?</p> <p>15 <b>A. In an e-mail to me.</b></p> <p>16 Q. And the location at the University of Houston, 17 how was that request -- or why was that location chosen?</p> <p>18 <b>A. Well, the ZIP codes in that proximity were -- 19 for Harris County were some of the highest non-match ZIP 20 codes, and so we wanted a location in that area. The 21 Holman Street Baptist Church is a place that our deputy 22 secretary is familiar with, and they were willing to make 23 their facilities available for an extended period of time 24 for this purpose, and so we were accommodating a local 25 population that was pretty rich in non-matches. So I</b></p>
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<p>1 go off the record for a minute?</p> <p>2 MR. ROSS: Okay.</p> <p>3 MR. KEISTER: You want to take a break for 4 a couple of minutes?</p> <p>5 THE REPORTER: If you don't mind.</p> <p>6 MR. ROSS: We can take a few minutes 7 break.</p> <p>8 (Recess from 5:11 p.m. to 5:15 p.m.)</p> <p>9 BY MR. ROSS:</p> <p>10 Q. You mentioned that in determining where to 11 place EICs -- or excuse me -- mobile stations you 12 primarily looked to whether a location was rural and then 13 whether or not there were ZIP codes with a high number of 14 no matches, people on the no-match list.</p> <p>15 <b>A. That's right.</b></p> <p>16 Q. Okay. And you also mentioned the request from 17 Prairie View was a particular location that -- well, you 18 mentioned Prairie View, right?</p> <p>19 <b>A. Right.</b></p> <p>20 Q. Okay. Is there -- was there any other effort 21 to locate a mobile station near a college?</p> <p>22 <b>A. Sure. One of the mobile units that was pretty 23 consistently in place throughout the period before the 24 November 13 election was at Lone Star College, a junior 25 college campus in Houston, and then the Holman Street</b></p>	<p>1 <b>don't know if they actually needed IDs or not, but that 2 was the -- the primary purpose of the Holman Street 3 Baptist Church location was to accommodate those ZIP 4 codes. The secondary purpose was it was close to the 5 University of Houston.</b></p> <p>6 Q. Okay. You said it was there for an extended 7 period of time?</p> <p>8 <b>A. That's right.</b></p> <p>9 Q. Do you know how long that was?</p> <p>10 <b>A. It was there almost the entire period that EIC 11 units were out and about, from late September to after 12 the election. I think that the Holman Street unit was 13 used in another county for a few days during that period, 14 but it was back at Holman Street thereafter.</b></p> <p>15 Q. Okay. And during that period, that couple of 16 months period it sounds like, was the mobile unit 17 stationed there for every day of the week?</p> <p>18 <b>A. Workdays, yes, sir.</b></p> <p>19 Q. Workdays. Was it stationed there after 20 four o'clock?</p> <p>21 <b>A. I don't know what the hours were. I don't 22 believe so. Maybe 4:30.</b></p> <p>23 Q. Okay. You also mentioned the West Star 24 University; was that it? Or excuse me. I'm sorry. 25 Lone Star. I'm in Texas.</p>

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<p>1           MR. ROSS: Let me strike that question.</p> <p>2   Q. The Lone Star --</p> <p>3   <b>A. Lone Star College.</b></p> <p>4   Q. -- College, yes.</p> <p>5   <b>A. Yes.</b></p> <p>6   Q. How was the decision to locate a mobile unit</p> <p>7   made there?</p> <p>8   <b>A. That was -- the location for that was chosen</b></p> <p>9   <b>with regard to Representative Turner's request. I</b></p> <p>10   <b>believe that that location is within his district.</b></p> <p>11   Q. Okay. Do you know when that location was open?</p> <p>12   <b>A. It was open the same as the Holman Street,</b></p> <p>13   <b>almost the entire time.</b></p> <p>14   Q. Okay. Do you know the days in which it was</p> <p>15 open, days of the week?</p> <p>16   <b>A. It would have been Monday through Friday.</b></p> <p>17   Q. Do you know the hours?</p> <p>18   <b>A. Business hours. I'm not sure exactly what the</b></p> <p>19   <b>schedule was.</b></p> <p>20   Q. After four o'clock?</p> <p>21   <b>A. Maybe to 4:30.</b></p> <p>22   Q. Okay. Do you know why those hours were chosen</p> <p>23 for that location?</p> <p>24   <b>A. DPS availability and the -- and the hours that</b></p> <p>25   <b>the building was open.</b></p>	<p>1   <b>administrator in Webb County.</b></p> <p>2   Q. Okay. Do you know why he asked for the</p> <p>3 extended hours?</p> <p>4   <b>A. He thought it would be good for his voters.</b></p> <p>5   Q. Do you know why he thought it would be good for</p> <p>6 his voters?</p> <p>7   <b>A. I don't.</b></p> <p>8   Q. Were you involved in that decision to open the</p> <p>9 office for extended hours, the mobile station?</p> <p>10   <b>A. I was the interface between Webb County and the</b></p> <p>11   <b>DPS.</b></p> <p>12   Q. Okay. Do you know if the Secretary of State's</p> <p>13 Office supported that effort to open the Webb County</p> <p>14 mobile station for extended hours?</p> <p>15   <b>A. Sure.</b></p> <p>16   <b>(Exhibit No. 33 marked)</b></p> <p>17   Q. Okay. I'd like to introduce what I marked as</p> <p>18 Exhibit 31 -- 32. I'm sorry.</p> <p>19   THE REPORTER: There's a 32 also.</p> <p>20   Q. Oh, 33.</p> <p>21   MR. KEISTER: I suggest we ask the court</p> <p>22 reporter.</p> <p>23   THE REPORTER: 33.</p> <p>24   Q. Okay. So looking at Exhibit 31 (sic), can you</p> <p>25 turn to page 2, which is Bates-stamped number</p>
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<p>1   Q. Okay. You said that you used a -- excuse me --</p> <p>2 the no-match list in part to determine locations. Did</p> <p>3 you rely on any data to determine when people were</p> <p>4 available in those locations, any -- did the Secretary of</p> <p>5 State do any studies to determine when people who were on</p> <p>6 the no-match list were available to go to EICs?</p> <p>7   <b>A. No.</b></p> <p>8   Q. Or excuse me. Go to mobile stations?</p> <p>9   <b>A. No.</b></p> <p>10   Q. You previously testified that Webb County was</p> <p>11 the only county you're aware of where a mobile unit was</p> <p>12 run after business hours?</p> <p>13   <b>A. It's my belief that at least Webb County had a</b></p> <p>14   <b>location that had some extra hours.</b></p> <p>15   Q. Do you know how that decision was made in</p> <p>16 Webb County?</p> <p>17   <b>A. They asked for it and we asked DPS for it.</b></p> <p>18   Q. Okay. Do you know what DPS' response was? Do</p> <p>19 you remember?</p> <p>20   <b>A. I don't remember exactly how it went down. I</b></p> <p>21   <b>don't remember if Oscar wanted the locations to be</b></p> <p>22   <b>extended hours every day and DPS gave him one. I don't</b></p> <p>23   <b>remember how that process happened.</b></p> <p>24   Q. Oscar was --</p> <p>25   <b>A. Oscar Villarreal, the -- the elections</b></p>	<p>1   TEX 00462498?</p> <p>2   <b>A. Yes, sir.</b></p> <p>3   Q. In the middle of that page do you see the</p> <p>4 e-mail from Mr. Jackson to Mr. Rodriguez dated October 2,</p> <p>5 2013, at 10:24 a.m.?</p> <p>6   <b>A. Yes.</b></p> <p>7   Q. Can you please review that e-mail?</p> <p>8   <b>A. Certainly. (Reviewing document)</b></p> <p>9   Q. So have you had a chance to look at it?</p> <p>10   <b>A. Uh-huh.</b></p> <p>11   Q. Can you read the line beginning with, Keith</p> <p>12 has?</p> <p>13   <b>A. Right.</b></p> <p>14   Q. Can you read it aloud, please.</p> <p>15   <b>A. Thank you. Keith has already contacted them to</b></p> <p>16   <b>request the change in hours from 9 to 4 with one day</b></p> <p>17   <b>available for off-business hours as we discussed.</b></p> <p>18   Q. Do you remember why you requested that the</p> <p>19 hours for the mobile station be from 9:00 a.m. to</p> <p>20 4:00 p.m.?</p> <p>21   <b>A. DPS made that request.</b></p> <p>22   Q. Well, this says: Keith has already contacted</p> <p>23 them to request the change in hours from 9 a.m. to 4 p.m.</p> <p>24   <b>A. Right, because DPS wanted me to make that</b></p> <p>25 <b>request of the county.</b></p>

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<p>1 Q. Okay. And did you oppose that request at all 2 or did you have an opinion on that request to limit the 3 hours from the evening?</p> <p>4 <b>A. I don't -- I don't understand your question.</b></p> <p>5 Q. Well, your testimony was that the Webb County 6 elections administrator asked that there be evening hours 7 for the mobile stations; is that correct?</p> <p>8 <b>A. That's right.</b></p> <p>9 Q. And your understanding is that DPS opposed 10 evening hours at that time, right?</p> <p>11 <b>A. That's right.</b></p> <p>12 Q. But it appears from the e-mail -- and feel free 13 to correct me -- that the Secretary of State's Office 14 requested the change from 9:00 a.m. to 4:00 p.m.</p> <p>15 <b>A. I was the point of contact for the counties, so 16 when DPS got the proposed locations from Webb County, 17 they got the proposed hours from Webb County, they did 18 not want to accommodate those locations at those hours 19 and they asked Wroe to ask me to ask the county to modify 20 the hours with one day available for off-business hours, 21 and that's the request that I made to Oscar.</b></p> <p>22 Q. Did the Secretary of State's Office play any 23 role in determining when mobile stations were open, the 24 hours they were open for?</p> <p>25 <b>A. I don't know how to answer that question. We</b></p>	<p>1 Q. Okay. Isn't that what the e-mail says, that 2 you thought business hours were better?</p> <p>3 <b>A. I'm using -- I'm using we in the sense to 4 encompass us and DPS. Since DPS is manning the stations, 5 this is DPS' request.</b></p> <p>6 Q. So is it your testimony that you were merely 7 conveying DPS' request for limited hours?</p> <p>8 <b>A. That's right.</b></p> <p>9 Q. Okay.</p> <p>10 <b>A. But I didn't want -- whenever you're doing 11 something like this -- I don't know if you've got kids, 12 but human beings are human beings, and if they sense any 13 daylight between participants in a program they will 14 exploit that, so there's -- there's no benefit to 15 Joyce Cowan understanding that DPS and I didn't really 16 agree on the hours, so I'm going to tell her we think, 17 because I'm saying we who are doing this program, have 18 agreed upon business hours being better.</b></p> <p>19 Q. Okay. What recourse would the Secretary of 20 State's Office have with -- in an instance where there 21 was a strong disagreement between the Department of 22 Public Safety and your office about the hours of a mobile 23 station?</p> <p>24 <b>A. If -- if there was a disagreement and it was 25 incapable of being resolved, I don't know.</b></p>
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<p>1 wanted as much availability as possible. DPS was 2 responsible for manning the stations, and there were 3 building constraints for some buildings, so operating in 4 an environment where another agency is supplying the 5 personnel and county or city agencies are running the 6 building, to the extent we had any control over the 7 process, which was very little, we wanted as many hours 8 as possible.</p> <p>9 <b>(Exhibit No. 34 marked)</b></p> <p>10 Q. Okay. So I'm going to show you what is marked 11 as Exhibit 34. Can you read the second e-mail message 12 from the top there?</p> <p>13 <b>A. Right.</b></p> <p>14 Q. And who is that e-mail message from?</p> <p>15 <b>A. That is me to the Hays County elections 16 administrator.</b></p> <p>17 Q. And what does the e-mail say?</p> <p>18 <b>A. Says: Excellent. The times are basically up 19 to you. We think business hours are better -- is 20 better -- or we think during business hours is better. A 21 table for the computer printer and a place to plug in for 22 electricity.</b></p> <p>23 Q. Okay. So why -- why did you think that 24 business hours were better?</p> <p>25 <b>A. I didn't.</b></p>	<p>1 Q. Does the MOU say anything about it?</p> <p>2 <b>A. It does not. And, you know, sometimes when -- 3 well, no, it doesn't.</b></p> <p>4 Q. Okay. Exhibit 34 was Bates range 462497 to 5 462499.</p> <p>6 <b>A. That's Exhibit 33.</b></p> <p>7 Q. Excuse me. Exhibit 33. And Exhibit 34 was 8 Bates range 462079 to 4620 -- well, they're all 462079. 9 My apologies.</p> <p>10 MR. ROSS: Strike that.</p> <p>11 Q. To your knowledge has a mobile station visited 12 every county in Texas?</p> <p>13 <b>A. I don't know. I doubt it.</b></p> <p>14 Q. Do you know why it wouldn't have visited every 15 county in Texas?</p> <p>16 <b>A. I guess because we haven't had time to yet.</b></p> <p>17 Q. Okay. Do you know which counties have not been 18 visited?</p> <p>19 <b>A. I do not.</b></p> <p>20 Q. Do you know why particular counties might not 21 have been visited other than not getting around to it?</p> <p>22 <b>A. You've got 25 units, you've got 254 counties, 23 and you've got a limited amount of time.</b></p> <p>24 Q. Okay. Do you know if there are any plans to 25 send mobile stations to counties that have not received</p>

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<p style="text-align: right;">329</p> <p>1 one in the past?</p> <p>2     <b>A. I don't know if that's a particular part of the</b> 3     <b>consideration. I don't think it is.</b></p> <p>4     Q. You don't know if it's a particular 5 consideration whether or not a county has already been 6 visited?</p> <p>7     <b>A. That's right.</b></p> <p>8     Q. Okay. In those counties that have not been 9 visited by a mobile station does your office know how far 10 the average person has to go to reach a mobile station?</p> <p>11        MR. KEISTER: Objection, vague.</p> <p>12     <b>A. Yeah, I -- I don't think the metric should be</b> 13     <b>how far someone has to drive to get to a mobile station.</b></p> <p>14     I think the metric should be how far does somebody have 15     <b>to drive to get to a driver license office or other</b> 16     <b>available place for an election identification</b> 17     <b>certificate.</b></p> <p>18        Q. Well, based on that metric, has the Secretary 19        of State's Office conducted any studies to determine how 20        far people have to go in order to reach mobile -- or 21        excuse me -- DPS offices?</p> <p>22        <b>A. I have received information from the DPS</b> 23        <b>indicating areas of the state that are more than 50 miles</b> 24        <b>away from a driver license office and I have received</b> 25        <b>information from the DPS about places in the state that</b></p>	<p style="text-align: right;">331</p> <p>1 the no-match list you're aware of particular ZIP codes 2 that have high rates of individuals with no match that 3 appear on that list, right?</p> <p>4     <b>A. That's right.</b></p> <p>5     Q. Okay. Are you aware of the racial demographics 6 of those ZIP codes?</p> <p>7     <b>A. No.</b></p> <p>8                   <b>(Exhibit No. 35 marked)</b></p> <p>9     Q. Okay. I'm going to introduce one more exhibit. 10 It's number 35 and the Bates number is 461925.</p> <p>11 Mr. Ingram, are you familiar with this document at all?</p> <p>12     <b>A. I think that Janie might have sent this to me.</b></p> <p>13     Q. Okay. What is it?</p> <p>14     <b>A. This is a notice for Val Verde County for where</b> 15     <b>EIC mobile units would be available for the public.</b></p> <p>16     Q. Who is Janie?</p> <p>17     <b>A. Janie Ramon is the -- I believe she's the</b> 18     <b>county clerk in Val Verde County.</b></p> <p>19     Q. So was this created -- this was created by 20 Val Verde or who created this document?</p> <p>21     <b>A. I believe that -- that this is a Val Verde</b> 22     <b>County created document.</b></p> <p>23     Q. Do you know if the Secretary of State's Office 24 played any role in creating it?</p> <p>25     <b>A. We might have. This might be based on a form</b></p>
<p style="text-align: right;">330</p> <p>1     <b>are more than 100 miles away from a DPS office.</b></p> <p>2     Q. And is that information taken into 3 consideration in deciding where to locate a mobile 4 station?</p> <p>5     <b>A. Yes.</b></p> <p>6     Q. Has that -- did that come in the form of a 7 report or data set or --</p> <p>8     <b>A. You're talking about the information about how</b> 9     <b>far people have to drive?</b></p> <p>10    Q. The information about how far, yes.</p> <p>11    <b>A. It was a -- it was visual demonstration with</b> 12    <b>colored places being within 50 miles of a -- of a driver</b> 13    <b>license office and white portions not being within</b> 14    <b>50 miles.</b></p> <p>15    Q. Okay. Do you know if that information has been 16 produced to the plaintiffs?</p> <p>17    <b>A. I have no idea.</b></p> <p>18    Q. Okay. In general do you know the racial 19 demographics of the counties that have been visited by 20 a mobile station?</p> <p>21    <b>A. No.</b></p> <p>22    Q. Do you know the demographics of the counties 23 that have not been visited by a mobile station?</p> <p>24    <b>A. No.</b></p> <p>25    Q. The racial demographics. So you're -- based on</p>	<p style="text-align: right;">332</p> <p>1     <b>that we gave counties to use. I don't know.</b></p> <p>2     Q. Okay. Did the Secretary of State's Office have 3 a role in deciding to locate a mobile station in 4 Val Verde County?</p> <p>5     <b>A. Sure.</b></p> <p>6     Q. To your knowledge how was that decision made?</p> <p>7     <b>A. This would have been in the rural voters</b> 8     <b>component. We were trying to -- most of the places that</b> 9     <b>were far away from a driver license office were in the</b> 10    <b>Rio Grande Valley. I don't know if you've ever been to</b> 11    <b>Val Verde County, but it's very large, and we wanted to</b> 12    <b>make sure that counties like that had an opportunity to</b> 13    <b>have election identification certificate mobile units.</b></p> <p>14    Q. Do you know the racial demographics of that 15 county?</p> <p>16    <b>A. I do not.</b></p> <p>17    Q. Okay. On which dates does this press release 18 indicate that the mobile stations would be in Val Verde 19 County?</p> <p>20    <b>A. Thursday, October 31st and Friday,</b> 21    <b>November 1st.</b></p> <p>22    Q. Do you know how those dates were selected?</p> <p>23    <b>A. I don't. It was -- we were working our way</b> 24    <b>down from El Paso, and that's where we happened to be</b> 25    <b>those two days.</b></p>

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<p>1 Q. Do you know whether there were discussions 2 about operating the Val Verde County mobile station 3 during a weekend?</p> <p>4 A. I'm -- I don't believe there were any such 5 discussions, no, sir.</p> <p>6 Q. I guess, in general, for how many days a week 7 is a mobile station open at one location?</p> <p>8 A. We usually had the mobile stations in a general 9 vicinity for two days, and usually the county liked to 10 move it from one place to another on each day. Sometimes 11 the county would want it to be at the same location both 12 days.</p> <p>13 Q. Why two days?</p> <p>14 A. That's just what we put into the schedule.</p> <p>15 Q. So there were no discussions about having a 16 mobile station in a location for more than two days?</p> <p>17 A. Sure there was.</p> <p>18 Q. What sorts of discussions were there?</p> <p>19 A. As I mentioned, Harris County had a couple of 20 locations that were almost continuous throughout this 21 period. Harris County also has 2.8 million registered 22 voters.</p> <p>23 Q. So what went into consideration for deciding 24 whether or not to open a mobile station for more than two 25 days?</p>	<p>1 stations that DPS operated in those counties were in 2 place for five days, not two.</p> <p>3 Q. And those are the Phase 3 mobile stations?</p> <p>4 A. That's right.</p> <p>5 Q. Okay. Was it the Secretary of State's opinion 6 that the rural -- the rural voters in Val Verde County 7 would be able to easily access the mobile station there 8 on weekdays between 9:00 a.m. and 4:00 p.m.?</p> <p>9 A. Secretary of State's Office didn't have an 10 opinion in that regard. We did make it available for 11 folks.</p> <p>12 Q. Do you know if efforts were made to advertise 13 the presence of mobile stations in Val Verde County?</p> <p>14 A. I'm not sure what Janie did locally. I know 15 that we would have issued a press release, and I don't 16 know what else she did.</p> <p>17 Q. Do you know --</p> <p>18 A. I know that she was pretty excited about them 19 coming.</p> <p>20 Q. Do you know what efforts the Secretary of 21 State's Office in general does to advertise the location 22 of a mobile station?</p> <p>23 A. We will prepare materials that we release 24 directly to the media and we'll also prepare materials 25 for the county to use in their interactions with the</p>
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<p>1 A. How many voters could be helped by it.</p> <p>2 Q. Okay. To your knowledge are mobile stations 3 ever operated on weekends?</p> <p>4 A. I don't know if they have been for the spring 5 or not. Since we've gone to more of an event-driven 6 invitation model the likelihood is pretty high that we're 7 going to have some weekend EIC units.</p> <p>8 Q. But you don't know if that's happened in the 9 past?</p> <p>10 A. I'm not sure if it's actually happened yet this 11 year or not. I know it didn't happen last fall.</p> <p>12 Q. You know it did not happen last fall?</p> <p>13 A. It could have. Now, I don't want to speak 14 about Phase 3. There were DPS-operated mobile EIC units 15 in those counties that don't have a driver license 16 office, and they might have had some on weekends in those 17 counties. I wasn't directly involved in scheduling 18 those, so I don't know.</p> <p>19 Q. Okay. Do you know what counties those might 20 have been that had Saturday mobile stations?</p> <p>21 A. No. It would have been one of the 79 that 22 didn't get the training and the equipment to issue EICs 23 themselves and didn't have a driver license office.</p> <p>24 Q. Okay. Going back --</p> <p>25 A. And also, just to clarify, those mobile</p>	<p>1 media.</p> <p>2 Q. Is there a budget for advertising mobile 3 stations?</p> <p>4 A. In 2013, no. We do have part of our money 5 reserved this year for EIC unit program.</p> <p>6 Q. How much money is that for 2014?</p> <p>7 A. It's not -- it's, you know, however much we 8 need, but we've tried to save back a portion of our 9 \$2 million.</p> <p>10 Q. Do you know what amount that is, about what 11 amount that is?</p> <p>12 A. I don't. 300,000 or 400,000.</p> <p>13 Q. Okay. How is that money used, that \$300,000 14 or \$400,000?</p> <p>15 A. It hasn't been used.</p> <p>16 Q. Oh, it hasn't been used at all?</p> <p>17 A. That's right.</p> <p>18 Q. Okay. Are there plans to use it specifically?</p> <p>19 A. If needed, sure.</p> <p>20 Q. Do you -- what kinds of plans in general?</p> <p>21 A. Well, if we decide that we need to have an 22 extra budget for mobile EIC units, then it would be for 23 everything associated with them, banners, signage, 24 travel, employee expense. It would be everything 25 associated with the program.</p>

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<p style="text-align: right;">337</p> <p>1 Q. Okay. So the money that you mentioned for -- 2 that's budgeted for 2014 is for the mobile stations in 3 general, not for advertising them specifically?</p> <p>4 <b>A. Right.</b></p> <p>5 Q. Okay. And -- and you mentioned that the 6 Secretary of State's Office has model press releases for 7 the mobile locations.</p> <p>8 <b>A. Right.</b></p> <p>9 Q. Yeah. Does the Secretary of State's Office 10 sign off on ads before -- like the Val Verde one before 11 they're sent out by the counties?</p> <p>12 <b>A. Not usually, no, sir.</b></p> <p>13 Q. Does the Secretary of State's Office have 14 guidelines for effective advertising of mobile stations?</p> <p>15 <b>A. No.</b></p> <p>16 Q. Okay. Do you know if DPS has a budget for 17 advertising mobile stations?</p> <p>18 <b>A. I do not know.</b></p> <p>19 Q. Do you know if any other agency does?</p> <p>20 <b>A. I do not.</b></p> <p>21 Q. Okay. Well, you mentioned the Secretary of 22 State's efforts to reach out to particular groups through 23 the media about the SB 14 voter ID requirement.</p> <p>24 <b>A. Right.</b></p> <p>25 Q. Do you know if similar efforts to reach</p>	<p style="text-align: right;">339</p> <p>1 purpose is not to get EIC applications, right? That's 2 the hope for a benefit, but that's not the point. The 3 point is to make sure that people have the opportunity to 4 get an election identification certificate in close 5 proximity to them if they need it. We want to make the 6 opportunity available, so metrics on making the 7 opportunity available are a little more amorphous than 8 actual persons who have taken us up on the opportunity.</p> <p>9 Q. Okay. Let me ask you a couple of questions 10 about Phase 3 mobile units. You previously testified 11 that about 40 counties are participating in Phase 3?</p> <p>12 <b>A. No, what I testified to is that there were 40 13 counties involved last I heard. I believe there's more 14 than that now.</b></p> <p>15 Q. Okay. And according to your testimony, the 16 decision to locate mobile units in a particular county 17 was based in part on whether a DPS office was in that 18 county?</p> <p>19 <b>A. You talking about for Phase 3?</b></p> <p>20 Q. Phase 3, yes.</p> <p>21 <b>A. For Phase 3 all of those counties were targeted 22 for mobile EIC units.</b></p> <p>23 Q. All of which counties?</p> <p>24 <b>A. All of the 79 counties that don't have a driver 25 license office.</b></p>
<p style="text-align: right;">338</p> <p>1 particular groups, minorities in particular, were made 2 as --</p> <p>3 MR. ROSS: Well, strike that question.</p> <p>4 Q. Do you know if the Secretary of State's Office 5 made a particular effort to advertise to minorities the 6 presence of mobile stations in a location?</p> <p>7 <b>A. The Secretary of State's Office didn't make 8 advertising efforts with regard to mobile EIC units.</b></p> <p>9 Q. Okay. To your knowledge how many people were 10 issued EICs by the mobile stations in Val Verde County on 11 October 31st and November 1st of 2013?</p> <p>12 <b>A. I do not know.</b></p> <p>13 Q. Do you have an estimate of how many people?</p> <p>14 <b>A. I do not.</b></p> <p>15 Q. It was your earlier testimony that the 16 Secretary of State's Office plans to evaluate the 17 effectiveness of the mobile unit program after the 2014 18 November elections?</p> <p>19 <b>A. If we're going to do some sort of comprehensive 20 evaluation, that's when it will occur.</b></p> <p>21 Q. Do you know how the Secretary of State's Office 22 might measure the effectiveness of the mobile stations 23 program?</p> <p>24 <b>A. Well, I don't -- that's -- that's a difficult 25 question because the effectiveness of it -- the -- the</b></p>	<p style="text-align: right;">340</p> <p>1 Q. Okay. Did your office take any other factors 2 into consideration when deciding whether to place a 3 Phase 3 mobile station in a particular county?</p> <p>4 <b>A. The Phase 3 program is not ours. We were just 5 a point of contact for the counties for DPS.</b></p> <p>6 Q. Okay. So the Secretary of State's Office -- 7 well, what role did the Secretary of State's Office play 8 in determining the location of a mobile station in 9 Phase 3?</p> <p>10 <b>A. None.</b></p> <p>11 Q. None. Okay.</p> <p>12 MR. ROSS: Can we take a really quick 13 break off the record?</p> <p>14 (Off the record 5:44 p.m. to 5:45 p.m.)</p> <p>15 BY MR. ROSS:</p> <p>16 Q. Are you familiar with roughly how many DPS 17 offices there are in Texas?</p> <p>18 <b>A. I -- I -- I don't know.</b></p> <p>19 Q. Okay. Do you have a sense of where the DPS 20 offices are located in Texas?</p> <p>21 <b>A. No.</b></p> <p>22 Q. Not even based on your work on the mobile 23 units?</p> <p>24 <b>A. No. What I know is the coverage area of a 25 particular -- of the DPS offices, but I don't remember on</b></p>

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<p>1 that map there being a point where the DPS office  2 actually is. It was just a shading for counties that  3 were within a 50-mile radius and a 100-mile radius of an  4 office, but I don't think it showed the offices. It  5 might have, but I don't think so. It's not something  6 that I would have keyed on at all.</p> <p>7 Q. Let's go back to one quick question. So you  8 mentioned that MOU, Exhibit 4, that it may have been  9 updated from two to five days notice for DPS and the  10 Secretary of State's Office on the location of a mobile  11 station?</p> <p>12 A. I think what I said is that we've agreed to  13 extend that to five days. Whether or not it's been  14 formalized or not, I don't think it has.</p> <p>15 Q. Formalized -- by formalized you mean whether  16 it's in writing somewhere?</p> <p>17 A. That's right. I mean, I'm sure -- well, I  18 don't know. I mean, I saw Louri's e-mail from earlier  19 mentioning the five-day requirement and I know the  20 five-day requirement has been agreed to by our respective  21 offices.</p> <p>22 Q. Okay. If it was memorialized in writing do you  23 know if it would have been produced?</p> <p>24 A. I don't.</p> <p>25 Q. Okay. If it were not memorialized in writing</p>	<p>1 MS. KORGAONKAR: Okay. That's all.  2 MR. ROSENBERG: Let's take a short break,  3 and then we can come back for any type of follow-ups.  4 (Recess from 5:47 p.m. to 5:55 p.m.)  5 FURTHER EXAMINATION  6 BY MR. ROSENBERG:</p> <p>7 Q. We're going to try to do this as expeditiously  8 as possible, Mr. Ingram. Just before the end of the  9 questions you were talking about the metric that you  10 would use for evaluating the success of the mobile -- or  11 of the EIC program, and could you again please tell me  12 what you -- what metric you referenced?</p> <p>13 A. Sure. It would be easy to say that the program  14 is a success or failure based upon the number of EIC  15 units that are issued for mobile units, but I don't think  16 that that's the best measure of whether or not the  17 program was a success or needs to be repeated. The  18 metric that I would advocate for is how widely available  19 were the EICs made, and the idea being that we would want  20 to make sure that populations of voters and voters who  21 don't live in population centers both had access to an  22 election identification certificate if they needed one.</p> <p>23 Q. And how would you judge how widely available  24 EICs were made?</p> <p>25 A. See, that's what I mean. That's a much more</p>
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<p>1 could it be changed based on an understanding between the  2 Secretary of State's Office and DPS, be changed back to a  3 two-day requirement?</p> <p>4 A. If it were changed it would be to make it  5 longer, not to make it shorter.</p> <p>6 MR. ROSS: Okay.</p> <p>7 EXAMINATION</p> <p>8 BY MS. KORGAONKAR:</p> <p>9 Q. I just have one very quick question -- I  10 understand it's late in the day -- about the July 2013  11 match that gave you ZIP codes where there's the highest  12 concentration of people who didn't match who may not have  13 an ID.</p> <p>14 A. Right.</p> <p>15 Q. Was there any effort made by the Secretary of  16 State's Office to learn anything about those populations  17 within those ZIP codes?</p> <p>18 A. No.</p> <p>19 Q. There was no inquiry into, for example, whether  20 those people worked within those ZIP codes?</p> <p>21 A. No.</p> <p>22 Q. Or the hours that those people were likely,  23 based on perhaps census data, to have been within those  24 ZIP codes during a weekday?</p> <p>25 A. No, ma'am.</p>	<p>1 amorphous metric and that's a very difficult thing to  2 evaluate.</p> <p>3 Q. Have you given some thought to that?</p> <p>4 A. No.</p> <p>5 Q. Have you considered what factors you might take  6 into consideration?</p> <p>7 A. No.</p> <p>8 Q. Did the state have a contract with any vendor  9 or marketing agency to provide a statewide voter  10 education program from June 25, 2013, to the end of 2013?</p> <p>11 A. We had a statewide voter education campaign  12 that was in place toward the end of the year, but not  13 from June 25th on.</p> <p>14 Q. Do you know when in 2013 it began?</p> <p>15 A. I believe it was in September.</p> <p>16 Q. Was that pursuant to an RFP?</p> <p>17 A. It was not.</p> <p>18 Q. Who was the vendor?</p> <p>19 A. We did an emergency procurement with TKO since  20 they were involved in our voter education campaign in  21 2012 and were familiar with the requirements of that RFP,  22 which included voter ID education.</p> <p>23 Q. How much did it cost?</p> <p>24 A. We allocated 400,000 to the -- to the effort.</p> <p>25 Q. And do you know what it covered?</p>

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<p>1     <b>A. As much as we could cover for 400,000. It</b>  2     <b>covered -- it covered --</b>  3     Q. You and I would spend it quite differently.  4     <b>A. Yeah, exactly. It covered paid media,</b>  5     <b>advertising on cable TV and newspapers and radio, and it</b>  6     <b>also covered visits by the secretary -- at that time it</b>  7     <b>was Secretary of State Steen -- to election officials</b>  8     <b>across the state to gather earned media.</b>  9     Q. And was TKO responsible for placing the ads on  10    radio and television, newspaper, all of that?  11    <b>A. They were.</b>  12    Q. On the Burson Marsteller contract, was that  13    pursuant to a public bid?  14    <b>A. It was.</b>  15    Q. And have those bidding materials been produced  16    in connection with this litigation; do you know?  17    <b>A. I don't know.</b>  18    Q. What was the budget for that?  19    <b>A. Two million.</b>  20    Q. And there was a contract, I assume?  21    <b>A. Yes.</b>  22    Q. And do you know if that's been produced?  23    <b>A. I don't. I believe the contract is for</b>  24    <b>1.675 million.</b>  25    Q. And the 2 million comes from -- or the</p>	<p>1     <b>A. I'm not sure exactly how to answer that</b>  2     <b>question. They -- they were -- I don't want to violate</b>  3     <b>my attorney's instruction.</b>  4     Q. Well, let's see if we can parse it just a bit.  5     I think your attorney -- well, which part of your  6     attorney's instruction are you concerned about violating?  7     <b>A. Deliberative privilege and attorney-client</b>  8     <b>privilege.</b>  9     Q. What attorney was involved in -- what attorney  10    communications are involved in your answer? When I say  11    what attorney, I mean the identity of the attorney.  12    <b>MR. KEISTER: Don't answer that question.</b>  13    <b>MR. ROSENBERG: Then how can we tell</b>  14    <b>whether the attorney-client privilege applies?</b>  15    <b>MR. KEISTER: Well, it's the</b>  16    <b>attorney-client privilege because the attorney-client --</b>  17    <b>the attorneys were involved in it, and we're not going to</b>  18    <b>get into those discussions and argue and -- I mean, you</b>  19    <b>can ask him anything that has to do with the -- you know,</b>  20    <b>with the ultimate decisions or work that the governor put</b>  21    <b>into it, but going into the deliberations behind it and</b>  22    <b>any possible attorney-client communications, who, when,</b>  23    <b>what, and where, I'm going to instruct him not to answer.</b>  24    <b>MR. ROSENBERG: And the only reason I'm</b>  25    <b>just a little puzzled is because my questions have to do</b></p>
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<p>1     difference between the 2 million and 1.675 comes from?  2     <b>A. The money that we've held back if we need it</b>  3     <b>for EIC mobile unit program.</b>  4     Q. What, to your knowledge, has been the  5     participation of anyone in the Governor's Office in the  6     implementation of SB 14?  7     <b>A. I don't know what all the governor has done</b>  8     <b>with regard to the implementation of SB 14. The</b>  9     <b>Governor's Office and MacGregor Stephenson has worked</b>  10    <b>with us on mobile EIC units. We've talked to, you know,</b>  11    <b>people in the Governor's Office about implementation of</b>  12    <b>the voter ID list to make sure that we were communicating</b>  13    <b>with all the stakeholders about the list of acceptable</b>  14    <b>IDs as we interpreted it.</b>  15    Q. Anything else?  16    <b>A. I don't -- I can't think of anything else off</b>  17    <b>the top of my head.</b>  18    Q. What was the specific participation of the  19    Governor's Office in connection with the mobile EIC  20    units? What was -- what recommendations did it make?  21    <b>MR. KEISTER: To the extent that that</b>  22    <b>involves any attorney-client communications or</b>  23    <b>deliberative process communications, I'm going to</b>  24    <b>instruct you not to answer, but if you can give him</b>  25    <b>the --</b></p>	<p>1     with communications between the Governor's Office and --  2     <b>MR. KEISTER: The Governor's Office is a</b>  3     <b>defendant in this case as is the Secretary of State and</b>  4     <b>as is DPS.</b>  5     <b>MR. ROSENBERG: Well, then let me back up</b>  6     <b>and ask these questions.</b>  7     <b>BY MR. ROSENBERG:</b>  8     Q. Have you had any communications with anyone  9     from the Governor's Office concerning the implementation  10    of SB 14?  11    <b>A. Yes.</b>  12    Q. With whom did you have such communications?  13    <b>A. I've talked to MacGregor Stephenson and I've</b>  14    <b>talked to Cathy Walt. I don't know if I've talked to</b>  15    <b>anybody else.</b>  16    Q. And what subject areas did you discuss with  17    MacGregor Stephenson concerning the implementation of  18    SB 14?  19    <b>MR. KEISTER: Without going into the</b>  20    <b>details. You can tell the subject matters, but not the</b>  21    <b>underlying conversations.</b>  22    <b>A. The subject matters that I've spoken to the</b>  23    <b>Governor's Office about were our interpretation of the</b>  24    <b>list of photo IDs and mobile EIC unit program.</b>  25    Q. And when you say your interpretation of the</p>

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<p>1 list of photo IDs, what do you mean by your 2 interpretation of the list?</p> <p>3 <b>A. The information that I went through with</b> 4 <b>Ms. Westfall about the specific forms that we believe a</b> 5 <b>military ID takes, the specific forms that a certificate</b> 6 <b>of citizenship takes, that sort of thing.</b></p> <p>7 Q. And did the Governor's Office provide its 8 opinion on any of those issues?</p> <p>9 <b>A. They agreed with our interpretation.</b></p> <p>10 Q. Now, the second area that you said you 11 discussed was the mobile EIC units. With whom did you 12 have discussions concerning mobile EIC units?</p> <p>13 <b>A. MacGregor Stephenson and Cathy Walt in the</b> 14 <b>Governor's Office, if that's what we're talking about.</b></p> <p>15 Q. And which issues relating to the mobile EIC 16 units did you discuss?</p> <p>17 <b>A. We -- we discussed with them whether to do the</b> 18 <b>program or not.</b></p> <p>19 Q. Did the Governor's Office provide its opinion 20 and recommendation to you on that issue?</p> <p>21 <b>A. Yes.</b></p> <p>22 Q. And what was it?</p> <p>23 MR. KEISTER: Once again, in terms of any 24 communications that are deliberative, I'm going to 25 instruct you not to answer based on deliberative process.</p>	<p>1 discussions?</p> <p>2 <b>A. I think that our -- our discussions with the</b> 3 <b>Governor's Office regarding the implementation of phot</b> 4 <b>ID centered around the interpretation of the secretary's</b> 5 <b>office about the list of acceptable IDs and the mobile</b> 6 <b>EIC unit program.</b></p> <p>7 Q. So other than those two issues, as far as 8 you're aware no one in your office had discussions with 9 anyone in the Governor's Office concerning the 10 implementation of SB 14?</p> <p>11 <b>A. We could have. I'm not sure about this, but</b> 12 <b>our office could have communicated with the Governor's</b> 13 <b>Office about voter education in the fall of 2013 and</b> 14 <b>funds to pay for that effort.</b></p> <p>15 Q. And when you say you could have, you mean you 16 think you might have or you --</p> <p>17 <b>A. I don't know if that was the case or not. If</b> 18 <b>it was, it would have been communication with</b> 19 <b>Mike Morrissey in the Governor's Office.</b></p> <p>20 Q. And who would have had that communication?</p> <p>21 <b>A. Mr. Jackson and Mr. Shorter.</b></p> <p>22 Q. One last question I have -- I don't know if 23 anyone else has any follow-up. In your -- in your view, 24 in the construction of SB 14, the education program that 25 is mandated by the statute, does it specifically mandate</p>
<p>350</p> <p>1 He can give you the ultimate implementation decision, you 2 know, but in terms of giving the discussions I'm going to 3 instruct him not to answer.</p> <p>4 <b>A. They strongly supported the effort.</b></p> <p>5 Q. Did you have discussions with anyone in the 6 Governor's Office concerning any locations of the mobile 7 EIC units?</p> <p>8 <b>A. I don't believe so.</b></p> <p>9 Q. Do you know if anyone in your office did?</p> <p>10 <b>A. I don't believe so.</b></p> <p>11 Q. Do you know if anyone in your office other than 12 yourself had discussions with anyone in the Governor's 13 Office concerning implementation of SB 14?</p> <p>14 <b>A. Yes.</b></p> <p>15 Q. And who was that?</p> <p>16 <b>A. Our general counsel, Wroe Jackson, and our</b> 17 <b>deputy secretary of state, Coby Shorter, as well as</b> 18 <b>Secretary Steen.</b></p> <p>19 Q. And were you privy to those discussions?</p> <p>20 <b>A. I was privy to the ones that I was privy to.</b></p> <p>21 <b>I don't know if I was privy to all of them.</b></p> <p>22 Q. Were you aware of what the subject matters are 23 of the discussions where you were not privy?</p> <p>24 <b>A. I don't know what I don't know.</b></p> <p>25 Q. Meaning did they tell you after the</p>	<p>352</p> <p>1 that you focus on photo ID in terms of the education or 2 voter -- voter -- voter ID generally with photo ID kind 3 of folded into it?</p> <p>4 <b>A. I don't know.</b></p> <p>5 Q. Or something else?</p> <p>6 <b>A. No, I'd have to -- I'd have to read the bill to</b> 7 <b>see what it says. But the -- the bill set aside a</b> 8 <b>particular pot of money, and that is money from the</b> 9 <b>federal government under the Help America Vote Act. I</b> 10 <b>setting aside that particular pot of money it comes with</b> 11 <b>its built-in set of constraints, and so regardless of</b> 12 <b>what the legislature said and the words that they used</b> 13 <b>with regard to that \$2 million, it can't overcome the</b> 14 <b>regulations associated with spending federal money on a</b> 15 <b>voter education program, so we have endeavored in our</b> 16 <b>office in putting this program together to have a program</b> 17 <b>that very much emphasizes voter ID education as directed</b> 18 <b>by the legislature while accommodating the requirements</b> 19 <b>on the use of the money by the federal government.</b></p> <p>20 MR. ROSENBERG: I'll pass to whomever else 21 wants to ask a question or two.</p> <p>22 <b>FURTHER EXAMINATION</b></p> <p>23 <b>BY MR. BARON:</b></p> <p>24 Q. Keith, just on that same topic -- I'll just 25 speak loud. So the 1.675 million on the</p>

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<p>1 Burson Marsteller contract, that's the HAVA money?</p> <p>2     <b>A. That's right.</b></p> <p>3     Q. And so that contract, whatever it says, is</p> <p>4     going to have expenditures in compliance with HAVA?</p> <p>5     <b>A. That's right.</b></p> <p>6     Q. Whether that be photo ID education or a mix of</p> <p>7     general voter education and photo ID education?</p> <p>8     <b>A. It is going to be compliant with HAVA, yes,</b></p> <p>9     <b>sir.</b></p> <p>10    Q. And you said you would just have to read the</p> <p>11    bill, so in terms of the statutory requirement to conduct</p> <p>12    a statewide voter ID education plan, you're not sure</p> <p>13    today whether that allows you to conduct a general voter</p> <p>14    education plan with a statewide voter ID as a component</p> <p>15    or whether it would cause you to conduct a separate</p> <p>16    stand-alone photo ID education plan?</p> <p>17    <b>A. And what I'm trying to communicate to both you</b></p> <p>18    <b>and Mr. Rosenberg is that that is a distinction that is</b></p> <p>19    <b>not a difference at all. There is -- there is -- there</b></p> <p>20    <b>is -- we have completely complied with what the</b></p> <p>21    <b>legislature wanted us to do with regard to this money and</b></p> <p>22    <b>we are completely compliant with what the federal</b></p> <p>23    <b>government expects us to do with this money and we don't</b></p> <p>24    <b>see that there's any incompatibility, inconsistency, or</b></p> <p>25    <b>other problem with doing what we're doing the way that we</b></p>	<p>1 Since this was not done, signature is</p> <p>2 considered waived for this transcript.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1     <b>are doing it. We are both implementing what the</b></p> <p>2     <b>legislature wanted us to do with this money as well as</b></p> <p>3     <b>complying with the federal requirements associated</b></p> <p>4     <b>therewith. There is not any daylight between those two</b></p> <p>5     <b>things.</b></p> <p>6     Q. Fair enough. All we're trying to do -- all I'm</p> <p>7     trying to do is find out what was spent on photo ID and</p> <p>8     what was spent on other aspects of it. And the contract,</p> <p>9     I take it, will provide the answer to that?</p> <p>10    <b>A. I don't know if the contract talks about that.</b></p> <p>11    <b>The contract talks about a voter education campaign where</b></p> <p>12    <b>voter ID is the centerpiece.</b></p> <p>13    MR. BARON: Okay. Pass the witness.</p> <p>14    MR. ROSENBERG: We're done.</p> <p>15    THE REPORTER: Are there any stipulations,</p> <p>16    any more information for the record at all?</p> <p>17    MR. ROSENBERG: Usual stips.</p> <p>18    MR. KEISTER: Yeah. Reserve our questions</p> <p>19    for time of trial.</p> <p>20    THE REPORTER: Okay. We're off the record</p> <p>21    at 6:13.</p> <p>22    (Deposition concluded at 6:13 p.m.)</p> <p>23    (According to Federal Rule 30(e)(1)</p> <p>24    Deponent or party must request read and</p> <p>25    sign before the deposition is completed.</p>	<p>1     IN THE UNITED STATES DISTRICT COURT</p> <p>2     FOR THE SOUTHERN DISTRICT OF TEXAS</p> <p>3     CORPUS CHRISTI DIVISION</p> <p>4     MARC VEASEY, et al.,     )</p> <p>5     Plaintiffs,     )</p> <p>6     ) CIVIL ACTION NUMBER</p> <p>7     v.     ) 2:13-cv-193(NGR)</p> <p>8     )     )</p> <p>9     RICK PERRY, et al.,     )</p> <p>10    ) Defendants.     )</p> <p>11    REPORTERS CERTIFICATION</p> <p>12    DEPOSITION OF KEITH INGRAM</p> <p>13    APRIL 23, 2014</p> <p>14    I, TEENA L. HARMON-DAVIS, a Certified Shorthand</p> <p>15    Reporter in and for the State of Texas, hereby certify to</p> <p>16    the following:</p> <p>17    That the witness, KEITH INGRAM, was duly sworn by me</p> <p>18    and that this transcript of the oral deposition is a true</p> <p>19    record of the testimony given by the witness;</p> <p>20    That examination and signature of the witness to the</p> <p>21    deposition transcript was waived pursuant to Federal Rule</p> <p>22    30(e)(1);</p> <p>23    That the original deposition was delivered to</p> <p>24    Ms. Elizabeth Westfall;</p> <p>25    That the amount of time used by each party at the</p> <p>   deposition is as follows:</p> <p>   Ms. Westfall - 3 hours:39 minutes</p> <p>   Mr. Baron - 1 hour:21 minutes</p>

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1 Mr. Brazil - 0 hours:35 minutes  
2 Mr. Agraharkar - 0 hours:48 minutes  
3 Mr. Rosenberg - 0 hours:15 minutes  
4 Mr. Ross - 0 hours:48 minutes  
5 Ms. Korgaonkar - 0 hours:01 minutes  
6 I further Certify that I am neither counsel for,  
7 related to, nor employed by any of the parties or  
8 attorneys in the action in which this proceeding was  
9 taken, and further that I am not financially or otherwise  
10 interested in the outcome of the action.

11 Certified to by me on this, the 25th day of April,  
12 2014.

13  
14  
15  
16  
17



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Expires: December 31, 2014

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